

**COLORADO GENERAL ASSEMBLY
JOINT BUDGET COMMITTEE**



**FY 2016-17 STAFF BUDGET BRIEFING
JUDICIAL BRANCH**

**JBC Working Document - Subject to Change
Staff Recommendation Does Not Represent Committee Decision**

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JUDICIAL BRANCH

Branch Overview

One of three branches of Colorado state government, the Judicial Branch interprets and administers the law, resolves disputes, and supervises offenders on probation. The Chief Justice of the Colorado Supreme Court, selected by the justices of the Court, is the executive head of the Branch. The justices also appoint a State Court Administrator to oversee the daily administration of the Branch and provide administrative and technical support to the courts and probation. The General Assembly has established 22 judicial districts within the state. The state court system consists of both trial courts and appellate courts, described below. The General Assembly establishes the number of justices and judges at each level of the state court system¹.

Trial Courts

- *County Courts* have limited jurisdiction, handling civil cases involving not more than \$15,000, misdemeanors, civil and criminal traffic infractions, felony complaints, protection orders, and small claims.
- *District Courts* have general jurisdiction, handling felony criminal cases, large civil cases, probate and domestic matters, cases for and against the government, as well as juvenile and mental health cases.
- *Water Courts*, which are divisions of district courts, have exclusive jurisdiction over cases concerning water matters. There are seven water courts, one in each of the major river basins in Colorado.

Appellate Courts

- The *Colorado Court of Appeals* hears cases when either a plaintiff or a defendant believes that the district court made errors in the conduct of the trial. The Court of Appeals also reviews decisions of several state administrative agencies.
- The *Colorado Supreme Court* also hears appeals, but only when it considers the cases to have great significance. The Supreme Court may also answer legal questions from the General Assembly regarding proposed laws. The Supreme Court is responsible for overseeing the regulation of attorneys and the practice of law, and for reviewing judges standing for retention during elections.

Municipal courts and Denver's county court are not part of the state court system, and they are funded by their respective local governments. In addition, all counties are required to provide and maintain adequate court facilities for their respective district and county courts.

¹ Legislation changing the number of Supreme Court justices or district court judges requires a 2/3 majority in each house [Article VI, Sections 5 and 10 of the Colorado Constitution.]

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The Branch is also charged with supervising offenders on probation. Managed by the chief probation officer in each judicial district, approximately 1,250 employees prepare assessments and provide pre-sentence investigation services to the courts, supervise offenders sentenced to community programs, and provide notification and support services to victims. Investigation and supervision services are provided based on priorities established by the Chief Justice and each offender's risk of re-offending.

The Judicial Branch also includes six independent agencies:

- The *Office of the State Public Defender (OSPD)* and the *Office of Alternate Defense Counsel (OADC)* provide legal representation for indigent criminal defendants. These cases are first assigned to the OSPD, and then referred to the OADC if the OSPD has an ethical conflict of interest.
- The *Office of the Child's Representative* provides legal services to children entitled to legal representation at state expense.
- The *Office of the Respondent Parents' Counsel* provides legal representation for respondent parents involved in dependency and neglect proceedings.
- The *Office of the Child Protection Ombudsman* receives, investigates, and seeks resolution of complaints concerning child protection services and recommends changes to improve such services.
- The *Independent Ethics Commission* hears complaints and issues findings and advisory opinions on ethics-related matters that arise concerning public officers, members of the General Assembly, local government officials, or government employees.

Each of the independent agencies submits a separate budget request which is not reviewed or approved by either the Chief Justice or the Governor's Office of State Planning and Budgeting. Thus, it is up to the General Assembly to evaluate the relative merits of the budget initiatives contained in the seven budget requests that are submitted by Judicial Branch agencies.

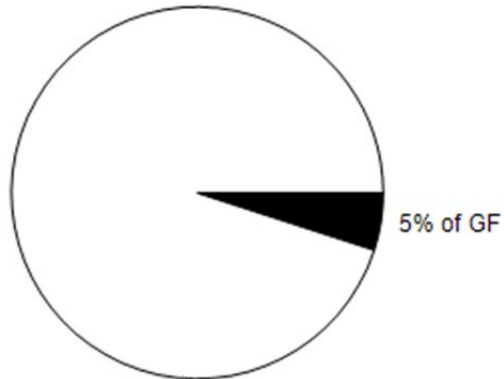
Branch Budget: Recent Appropriations

Funding Source	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17 *
General Fund	\$387,197,626	\$446,285,574	\$478,774,984	\$486,798,575
Cash Funds	139,499,079	135,533,939	157,342,072	165,465,506
Reappropriated Funds	25,814,561	30,798,095	33,940,651	34,079,645
Federal Funds	<u>4,425,000</u>	<u>4,425,000</u>	<u>4,425,000</u>	<u>4,425,000</u>
Total Funds	\$556,936,266	\$617,042,608	\$674,482,707	\$690,768,726
Full Time Equiv. Staff	4,358.7	4,522.3	4,592.3	4,611.7

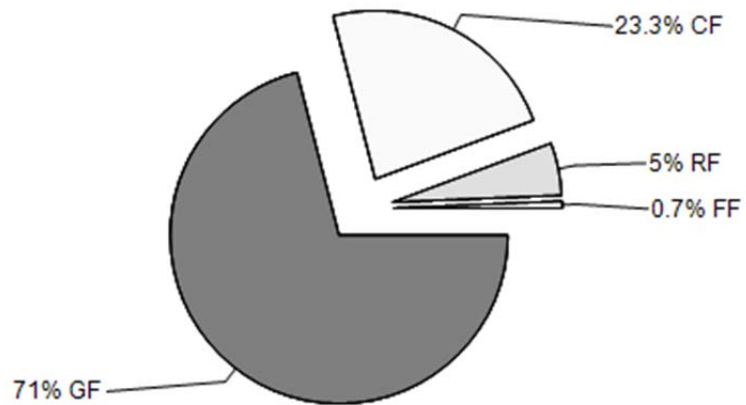
*Requested appropriation.

Branch Budget: Graphic Overview

**Department's Share of Statewide
General Fund**

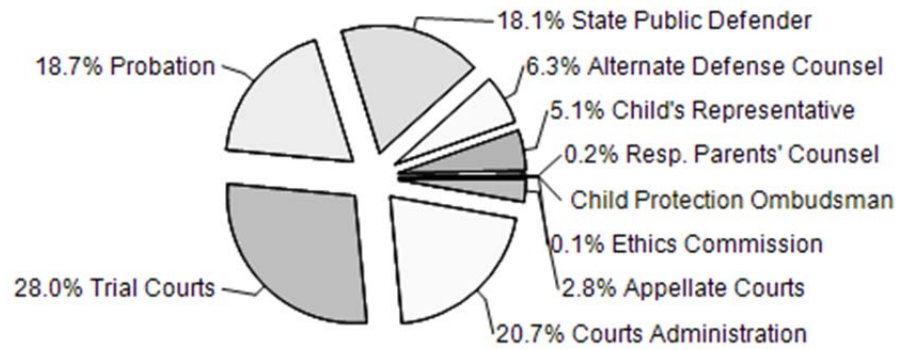


Department Funding Sources

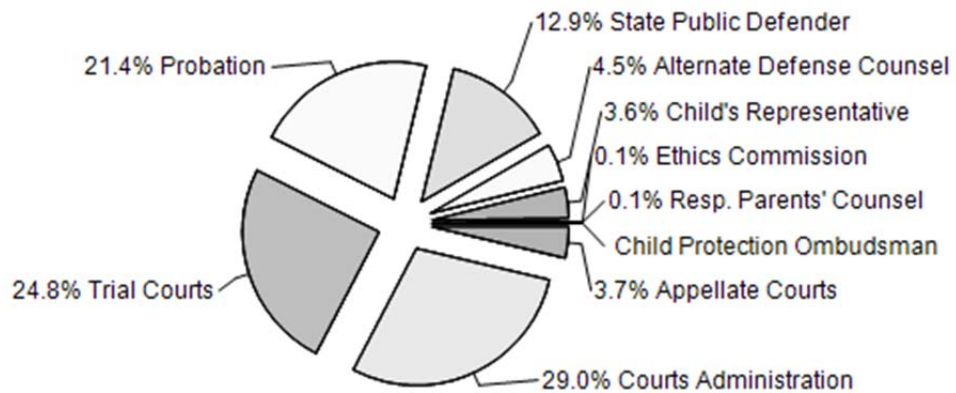


All charts are based on the FY 2015-16 appropriation.

Distribution of General Fund by Division



Distribution of Total Funds by Division



All charts are based on the FY 2015-16 appropriation.

General Factors Driving the Budget

The FY 2016-17 request for the Branch consists of 70.5 percent General Fund, 24.0 percent cash funds, 4.9 percent reappropriated funds, and 0.6 percent federal funds. Cash funds primarily include: various docket fees and surcharges that support court operations; fees paid by individuals sentenced to probation; attorney licensing fees that are used to regulate the practice of law in Colorado; and fees and cost recoveries related to electronic filings and other information technology services.

The main factor driving the budget for the Judicial Department is caseload. Judges, attorneys, probation officers, and support staff can only manage a certain number of cases each year. As the caseload grows, so does the need for resources if the Department is to continue fulfilling its constitutional and statutory duties in a timely and effective manner. Caseloads are generally driven by:

- population changes;
- changes in the state's economic climate, which can affect the number of civil filings (such as foreclosures and collections) as well as the crime rate and the proportion of clients who are financially eligible for state-funded legal representation; and
- changes in state laws and sentencing provisions.

Workload is also impacted by the types of cases filed, as some cases require more time and resources than others.

Case Filings and the Need for Court Staff

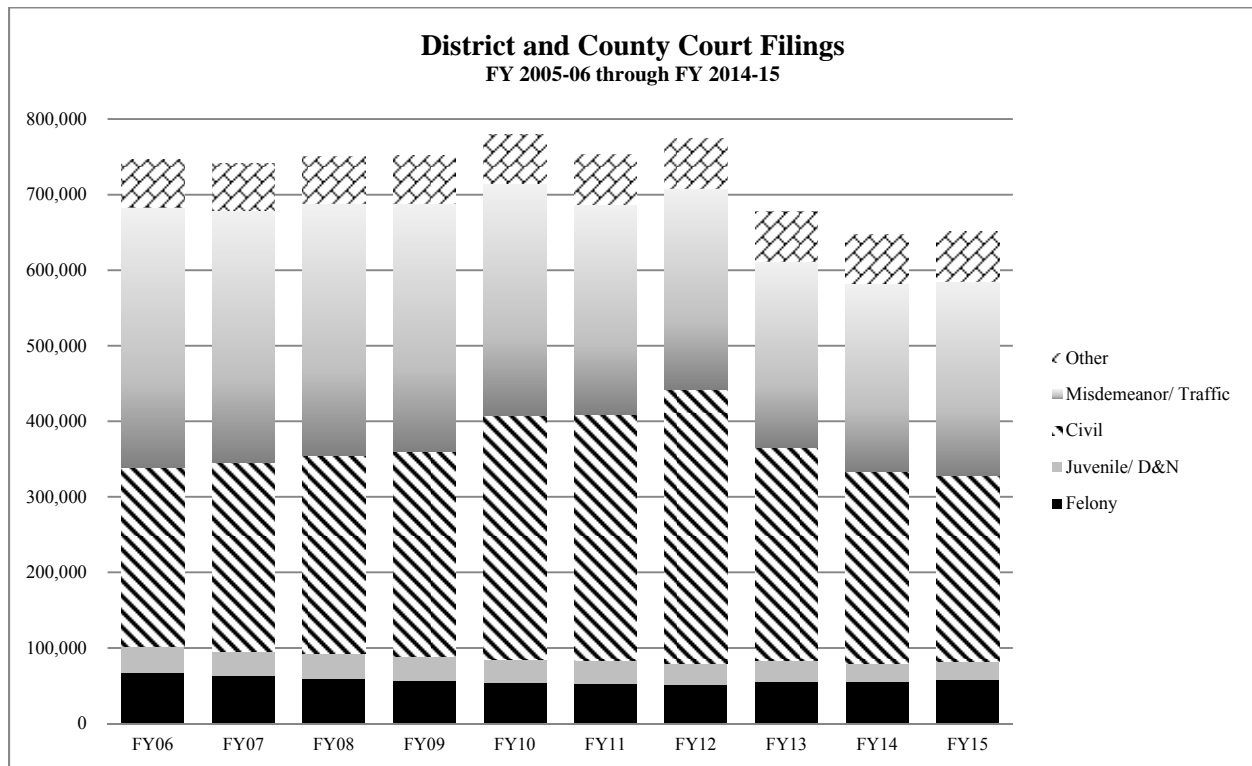
In FY 2014-15, approximately 655,000 cases were filed in the state court system, including 425,947 (65.0 percent) in county courts, 225,438 (34.4 percent) in district and water courts, 2,413 in the Court of Appeals, and 1,549 in the Supreme Court. The chart on the following page depicts the number of cases filed annually in county and district courts since FY 2005-06. Cases are depicted using the following categories: felony; juvenile/ dependency and neglect ("D&N"); civil; misdemeanor/ traffic; and other.

From FY 2005-06 through FY 2011-12, the total number of these "trial court" case filings increased by 3.7 percent, with a modest compound annual growth rate of 0.6 percent. The most significant increase occurred in civil cases, and in particular cases concerning tax liens and foreclosures. In FY 2012-13 this trend reversed, and total trial court case filings have declined by 15.9 percent over the last three fiscal years (nearly 123,000 cases). This decline primarily included a decrease of 62,503 (44.4 percent) tax lien and foreclosure district court cases and a decrease of 48,414 (25.0 percent) civil cases in county courts. *[See Appendix G for more details about court case filings.]*

Generally, tax lien, foreclosure, misdemeanor, and traffic cases do not require a significant amount of judge and court staff time, so the workload impact of reductions in these case types since FY 2005-06 is less significant than depicted in the following chart. For those case types that do have a significant workload impact, the caseload trend for the last three fiscal years is mixed. While the number of felony, probate, and mental health cases have increased (by a total

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of 8,300), the number of dependency and neglect, and juvenile cases has declined (by a total of 3,360).



The Department routinely monitors its workload and periodically requests funding through the budget process or through legislation. In response to workload increases, the General Assembly periodically passes legislation to increase the number of judges within one or more judicial districts. Most recently, H.B. 14-1050 added two district court judges and the associated court support staff for the 18th judicial district court (Arapahoe, Douglas, Elbert, and Lincoln counties) and H.B. 15-1034 added one judgeship to the 12th judicial district court (Alamosa, Conejos, Costilla, Mineral, Rio Grande, and Saguache counties). The Department indicates that FY 2015-16 funding supports only 85 percent of the full need for district court judges, but it supports 104 percent of the full need for county court judges and 102 percent of the full staffing need for non-judge trial court staff. *[See Appendix H for more details about court staffing levels.]*

Caseload Impacts Unique to Independent Agencies

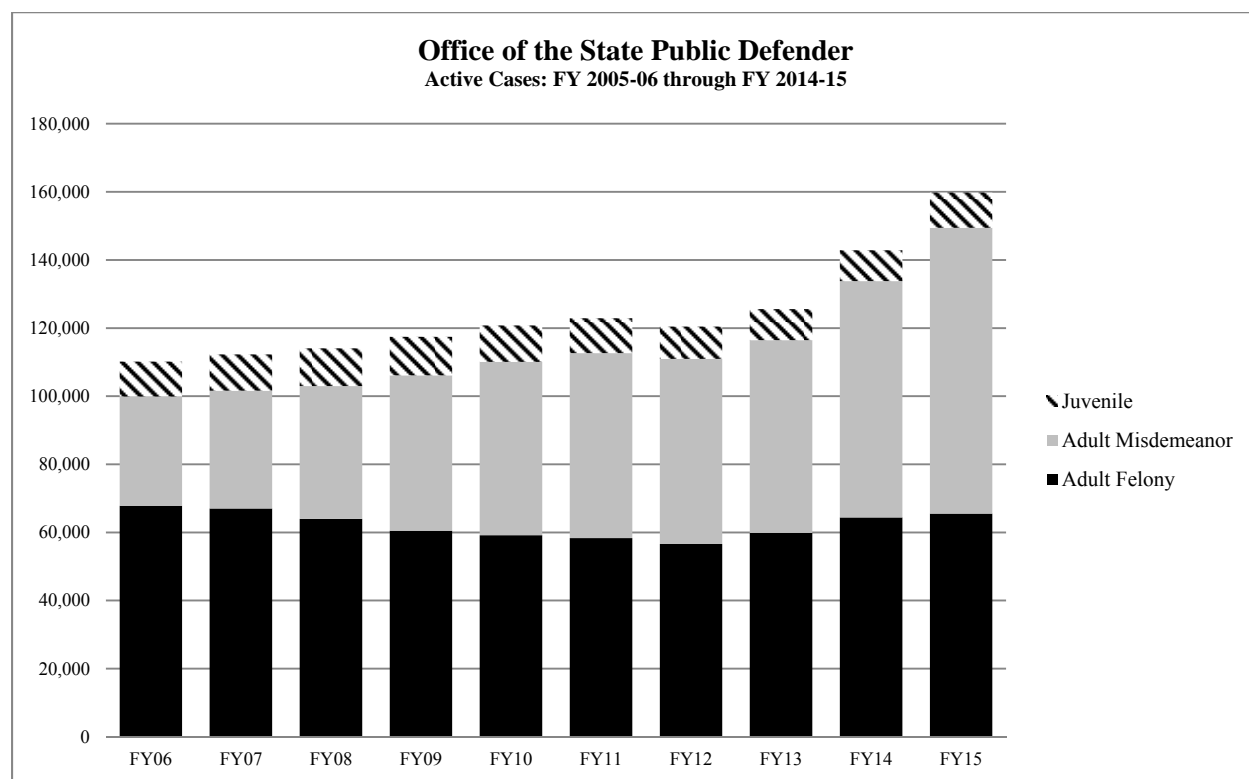
The three independent agencies that provide legal representation are affected in different ways by changes in the number of cases filed, based on the clients they represent.

The *Office of the State Public Defender (OSPD)* represents criminal defendants who have inadequate financial resources to pay for their own defense. The OSPD's caseload is affected by the number and types of cases filed, as well as the proportion of clients who are eligible for state-funded representation. As in the court system, more complicated cases consume more resources than simpler cases: felonies require more time than misdemeanors, and homicides require more time than assaults or robberies. Recent data indicates that the OSPD spends an average of \$508

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to represent a juvenile defendant, \$529 to represent an adult misdemeanor defendant, and \$817 to represent an adult felony defendant. Further, approximately 87 percent of adult felony defendants receive state funded representation (either through the OSPD or the Office of the Alternate Defense Counsel, which is discussed below), compared to 65 percent of adult misdemeanor defendants. Thus, felony cases are the primary factor driving OSPD staffing needs.

As illustrated in the following chart, the total number of cases requiring public defender involvement has increased in every year but one since FY 2004-05, reaching 159,814 in FY 2014-15. In the last two fiscal years alone the total number of cases increased by 34,208 (27.2 percent). This primarily includes an increase of 27,244 (48.1 percent) adult misdemeanor cases largely due to the passage of H.B. 13-1210, which repealed a statute that required an indigent person charged with a misdemeanor or other minor offenses to meet with the prosecuting attorney for plea negotiations before legal counsel is appointed². In addition, the number of adult felony cases has increased by 5,703 (9.5 percent) since FY 2012-13. The OSPD routinely monitors its workload and periodically requests additional funding to ensure that staffing levels are sufficient to provide legal representation in an ethical and effective manner. The OSPD indicates that FY 2015-16 funding supports 90 percent of the need for attorneys, and 85 percent of the full need for all public defender staff (including attorneys, investigators, and support staff).



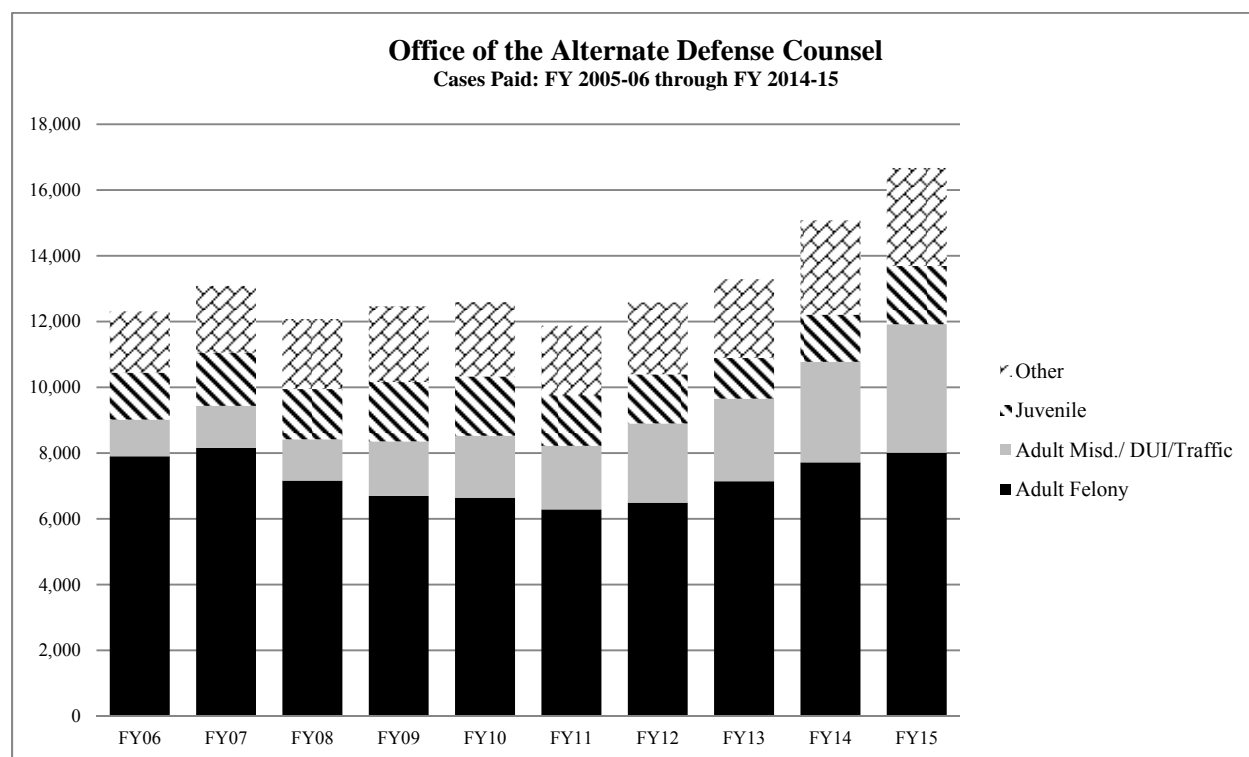
The *Office of the Alternate Defense Counsel (OADC)* contracts with private attorneys to represent indigent defendants in cases where the OSPD has an ethical conflict of interest in

² These changes apply to misdemeanors, petty offenses, class 2 and class 3 misdemeanor traffic offenses, and municipal or county ordinance violations committed on or after January 1, 2014.

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providing legal representation. The OADC paid for legal representation in 16,680 cases in FY 2014-15, at an average cost of \$1,610 per case. Similar to the OSPD, certain types of cases (*e.g.*, death penalty cases) are more expensive than others; these cases require more hours of attorney time and a higher hourly rate. For example, in FY 2014-15 the OADC paid for an average of 17 attorney hours per case; however, the average number of attorney hours per case ranged from seven for adult misdemeanor and juvenile cases to 1,767 for death penalty cases.

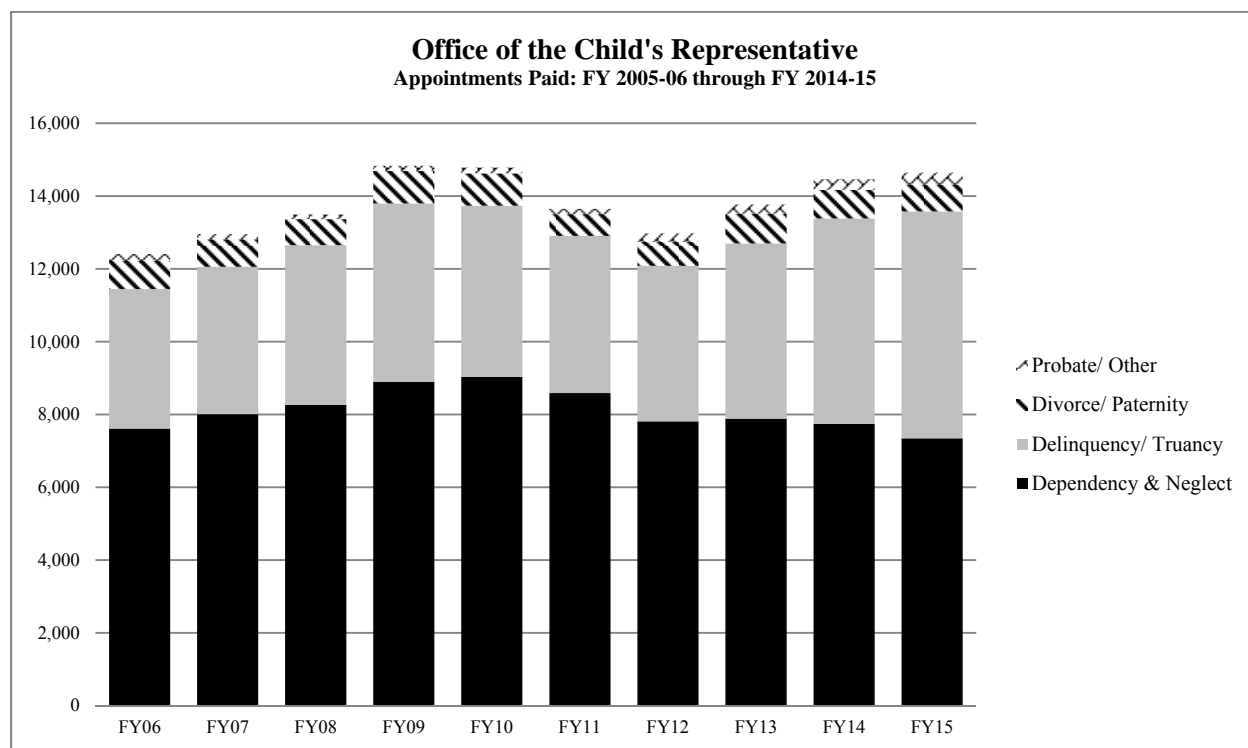
As illustrated in the following chart, the OADC's overall caseload is generally more variable than that of the OSPD. However, similar to the OSPD, the OADC has experienced significant caseload increases in the last two fiscal years (an overall increase of 3,390 cases or 25.5 percent). The OADC experienced increases in every case type, but the most significant increases occurred in adult misdemeanors/DUI/Traffic cases (1,393 cases or 55.5 percent) and juvenile cases (538 cases or 43.6 percent). As the OADC contracts with private attorneys, it routinely submits requests for budget adjustments to ensure that it has sufficient funding to cover payments for all assigned cases.



The *Office of the Child's Representative (OCR)* is responsible for providing legal representation for children involved in the court system due to abuse or neglect, delinquency, truancy, high conflict divorce, alcohol or drug abuse, mental health issues, and probate matters. The OCR paid for legal representation in 14,653 court appointments in FY 2014-15 at an average cost of \$1,297 per appointment. Similar to the OSPD and OADC, the average cost per appointment varies significantly for different types of cases. For example, in FY 2014-15 the OCR spent an average of \$323 per appointment in truancy cases, \$582 per appointment in juvenile delinquency cases, \$875 per appointment in domestic relations cases, and \$2,008 per appointment in cases involving

abuse and neglect (called dependency and neglect or "D&N" cases). Thus, the OCR's expenditures are primarily driven by the number of D&N cases, as these cases account for the most court appointments and require the most attorney time.

As illustrated in the following chart, the overall number of appointments has increased over the last three fiscal years. This overall increase is primarily related to increases in the number of appointments involving juvenile delinquency or truancy; these appointments now account for 42.6 percent of the total, compared to 30.9 percent in FY 2005-06. The OCR routinely submits requests for budget adjustments to ensure that it has sufficient funding and staffing (in its El Paso county office) to cover payments for all assigned cases.



Probation and Related Services Caseload

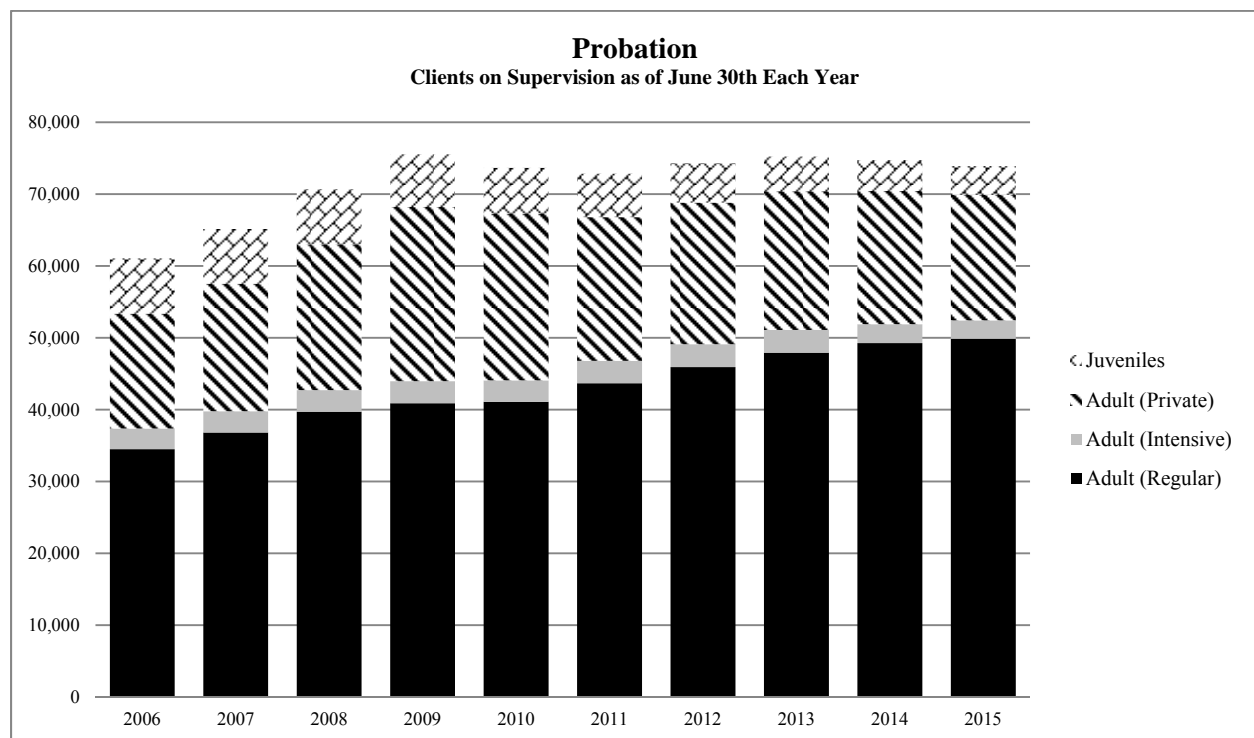
Individuals sentenced to probation, as an alternative to incarceration, remain under the supervision of the court. Failure to meet the terms of probation set forth in the court's sentencing order may result in incarceration. Managed by the chief probation officer in each judicial district, approximately 1,250 employees prepare assessments, provide pre-sentence investigation services to the courts, and supervise offenders sentenced to probation. Supervision services are provided based on each offender's risk of re-offending.

Funding for probation services is primarily driven by the number and types of offenders sentenced to probation and statutory requirements concerning probation eligibility and supervision time frames. Those offenders that present a higher risk of re-offending require more resources. For example, the most recent data indicates that the average annual cost of probation supervision ranges from \$1,556 for an adult on "regular" probation to \$3,308 for an adult on

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"intensive" supervision; similarly, the average annual cost of probation supervision ranges from \$2,265 for a juvenile on regular probation to \$4,095 for a juvenile on intensive supervision.

The *total* number of offenders sentenced to probation increased significantly from 2006 to 2009, and has since stabilized. However, the number of adult offenders who are *supervised by state staff* (rather than private probation providers) has increased in every year except one over the last 10 years. The following chart depicts changes in the numbers of adults and juveniles on supervision since 2006. Overall, the number of juvenile and adult offenders who are supervised by state staff increased from 45,090 in June 2006 to 56,432 in June 2015 (25.2 percent). As this number grows, so does the need for probation supervisors, officers, and support staff to adequately supervise offenders. The Department routinely monitors its workload and periodically requests additional funding to adjust probation staffing levels based on the number and types of offenders sentenced to probation. The Department indicates that FY 2015-16 funding supports 91 percent of the full need for probation staff (including probation officers, supervisors, and support staff).



In addition, the General Assembly appropriates state funds to subsidize the cost of required treatment and services for offenders on probation. From FY 2007-08 to FY 2015-16, state funding for treatment and services for probation clients more than doubled, increasing from \$8.5 million to \$17.5 million. In FY 2014-15, nearly half of available state funding was used for substance abuse testing and treatment, and another 17.5 percent was used for sex offender assessment, treatment, and polygraph expenses. [See Appendix C, RFI #5 for more details about expenditures for treatment and services.]

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Summary: FY 2015-16 Appropriation & FY 2016-17 Request

	Judicial Department					
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
FY 2015-16 Appropriation						
SB 15-234 (Long Bill)	\$670,009,402	\$477,393,699	\$155,800,052	\$32,390,651	\$4,425,000	4,573.3
Other legislation	<u>4,473,305</u>	<u>1,381,285</u>	<u>1,542,020</u>	<u>1,550,000</u>	<u>0</u>	<u>19.0</u>
TOTAL	\$674,482,707	\$478,774,984	\$157,342,072	\$33,940,651	\$4,425,000	4,592.3
FY 2016-17 Requested Appropriation						
FY 2015-16 Appropriation	\$674,482,707	478,774,984	\$157,342,072	\$33,940,651	\$4,425,000	4,592.3
<u>Requests from Judicial Department (Courts and Probation)</u>						
JUD R1 IT and Security	7,967,203	711,933	7,255,270	0	0	6.0
JUD R2 Courthouse Capital and Infrastructure Maintenance	2,703,473	886,122	1,817,351	0	0	0.0
JUD R3 Offender Treatment and Services CF Spending Authority	1,500,000	0	1,500,000	0	0	0.0
JUD R4 Courthouse Security	224,400	224,400	0	0	0	0.0
<u>Requests from the Office of the Alternate Defense Counsel</u>						
OADC R1 Caseload Increase	1,513,302	1,513,302	0	0	0	0.0
OADC R2 Social Worker Coordinator	120,454	120,454	0	0	0	1.0
OADC R3 Communications Coordinator	89,309	89,309	0	0	0	1.0
<u>Requests from the Office of the Child's Representative</u>						
OCR R1 Court-appointed Counsel	(319,851)	(319,851)	0	0	0	0.0
OCR R2 Position Reclassification	11,054	11,054	0	0	0	0.0
OCR R3 FTE Increase	17,967	17,967	0	0	0	0.2
<u>Request from the Colorado District Attorneys' Council</u>						
CDAC R1 DA Mandated Costs	(227,197)	(227,197)	0	0	0	0.0
<u>Other Requested Changes</u>						
NPI Annual Fleet Vehicle Request	56,760	56,760	0	0	0	0.0
Employee Benefits and Common Changes	6,163,557	6,536,626	(373,069)	0	0	0.0
Annualize Prior Year Legislation	537,065	551,585	(14,520)	0	0	7.9
Annualize Prior Year Budget Actions	(4,098,482)	(2,057,842)	(2,040,640)	0	0	3.3
Other Changes	<u>27,005</u>	<u>(91,031)</u>	<u>(20,958)</u>	<u>138,994</u>	<u>0</u>	<u>0.0</u>
TOTAL	\$690,768,726	\$486,798,575	\$165,465,506	\$34,079,645	\$4,425,000	4,611.7
Increase/(Decrease)	\$16,286,019	\$8,023,591	\$8,123,434	\$138,994	\$0	19.4
Percentage Change	2.4%	1.7%	5.2%	0.4%	0.0%	0.4%

NOTE: The descriptions of prioritized requested changes in the above table indicate the source of the request: "JUD" indicates a request submitted by the Chief Justice concerning courts or probation programs; "OADC" indicates a request submitted by the Office of the Alternate Defense Counsel, "OCR" indicates a request submitted by the Office of the Child's Representative; and "CDAC" indicates a request submitted by the Colorado District Attorneys' Council.

Description of Requested Changes

Requests from Judicial Department (Courts/Probation)

JUD R1 IT and Security: The request includes a total of \$7,967,203, including \$711,933 General Fund and \$7,255,270 cash funds from the Judicial Department Information Technology Cash Fund (IT Cash Fund), for four purposes:

- \$4,063,026 cash funds to develop a disaster recovery site;
- \$3,184,864 cash funds to replace two iSeries servers;
- \$490,652 (primarily General Fund) to establish a 4.0 FTE information security team; and
- \$228,661 (primarily General Fund) to add 2.0 FTE IT Analyst Supervisors.

JUD R2 Courthouse Capital and Infrastructure Maintenance: The request includes a total of \$2,703,473, including \$886,122 General Fund and \$1,817,351 cash funds from the IT Cash Fund, to fulfill the State's responsibility for court facilities. The Department's request includes:

- \$1,006,000 General Fund for furnishings needed for expanded, remodeled, and new courthouse facilities, as well as to replace or refurbish existing furniture that is no longer usable;
- \$1,254,751 cash funds for courtroom phone systems, court docketing systems, and courtroom information technology infrastructure;
- \$562,600 cash funds for courtroom audiovisual equipment; and
- A reduction of \$119,878 General Fund due to a phone system lease purchase agreement that will be paid off in FY 2015-16.

JUD R3 Offender Treatment and Services CF Spending Authority: The request includes an increase of \$1,500,000 cash funds spending authority from the Offender Services Fund to provide treatment and other support services for offenders on probation.

JUD R4 Courthouse Security: The request includes an increase of \$224,400 General Fund for the Courthouse Security Grant program, including: \$170,400 to fund the replacement of security equipment such as magnetometers and surveillance systems; and \$54,000 to support additional security staff in certain county courthouses.

Requests from Office of the Alternate Defense Counsel (OADC)

OADC R1 Caseload Increase: The request includes an increase of \$1,513,302 General Fund to cover expenses associated with an increase in the number of cases requiring an OADC contract attorney to provide legal representation for indigent criminal defendants and juveniles. The OADC also plans to submit a similar request for FY 2015-16, as it began experiencing these caseload increases in FY 2014-15.

OADC R2 Social Worker Coordinator: The request includes \$120,454 General Fund for the OADC to add 1.0 FTE licensed clinical social worker to supervise and coordinate the use of contract social workers and social work interns who work with contract attorneys on juvenile cases and certain high-needs adult cases.

OADC R3 Communications Coordinator: The request includes \$89,309 General Fund to add 1.0 FTE Communications Coordinator serve as a central point of communication for the OADC and to work with the Department of Corrections and its facilities to implement video conferencing in a confidential setting so that appointed attorneys can meet with their clients rather than traveling long distances for such purpose.

Requests from Office of the Child's Representative (OCR)

OCR R1 Court-appointed Counsel: The request includes a decrease of \$319,851 General Fund to reflect a lower overall projected caseload for court-appointed counsel.

OCR R2 Position Reclassification: The request includes \$11,054 General Fund to reclassify a Program Administrator position to an Information Systems Manager position with a salary range that is consistent with the position's responsibilities.

OCR R3 FTE Increase: The request includes \$17,967 General Fund to increase the Information Systems Manager position from 0.6 FTE to 0.8 FTE.

Request from Colorado District Attorneys' Council

CDAC R1 DA Mandated Costs: The request includes a decrease of \$227,197 General Fund to reimburse district attorneys for costs incurred for prosecution of state matters, including the elimination of \$400,000 for the Holmes case and an increase of \$172,803 (7.1 percent) for all other cases. *[For more information, see Appendix C, Judicial request for information #4.]*

Other Requested Changes

NPI Annual Fleet Vehicle Request: The request includes \$56,760 General Fund for anticipated changes in annual payments to the Department of Personnel for fleet vehicles used by court, probation, and Office of the State Public Defender staff.

Employee Benefits and Common Changes: The request includes \$6,163,557 total funds (including \$6,536,626 General Fund) related to employee benefits and other centrally appropriated line items. This total amount is comprised of the following elements:

- \$4,835,027 total funds for salary increases to be awarded in FY 2016-17, including:
 - \$3,236,518 for the Judicial Department to increase the salaries of all judges and justices by 5.0 percent *[for information about proposed salary increases for justices and judges, see Appendix C, Long Bill footnote #45];*
 - \$1,585,414 to increase salaries by 5.0 percent for 12 judicial employee classifications that are benchmarked to judge salaries, and to increase salaries for another 60 judicial employee classifications that are considered at least 3.0 percent below market based on a recent compensation study; and
 - \$13,095 for the Office of the Child's Representative's Training Coordinator position;
- \$2,753,271 total funds (including an increase of \$2,855,550 General Fund and a decrease of \$102,279 cash funds) for supplemental PERA payments;
- \$886,782 total funds (including an increase of \$1,464,780 General Fund and a decrease of \$577,998 cash funds) for various types of insurance (health, life and dental; short-term disability; workers' compensation; and risk management and property funds); and

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- A decrease of \$2,311,523 General Fund for IT-related common policies and leased space adjustments.

Annualize prior year legislation: The request includes a total of \$537,065, including an increase of \$551,585 General Fund and a decrease of \$14,520 cash funds) and an increase of 7.9 FTE to reflect the FY 2016-17 impact of legislation that was passed in previous legislative sessions, including the following acts:

- S.B. 14-203 and H.B. 15-1149 Office of the Respondent Parents' Counsel (increase of \$576,115 General Fund, \$22,500 cash funds, and 3.3 FTE)
- S.B. 15-204 Office of the Child Protection Ombudsman (increase of \$115,554 General Fund and 2.1 FTE)
- H.B. 15-1034 Add One Judge (decrease of \$58,955 General Fund and \$7,020 cash funds; increase of 0.3 FTE)
- H.B. 15-1043 Felony Offense for Repeat DUI Offenders (decrease of \$53,549 General Fund and increase of 2.7 FTE)
- H.B. 15-1153 Child and Family Investigator Oversight (decrease of \$27,580 General Fund and 0.5 FTE)
- S.B. 08-054 Judicial performance evaluations (decrease of \$30,000 cash funds)

Annualize prior year budget actions: The request includes a decrease of \$4,098,482, including decreases of \$2,057,842 General Fund and \$2,040,640 cash funds) and an increase of 3.3 FTE to reflect the FY 2016-17 impact of the following FY 2015-16 budget decisions:

- Adjustment for Senior Judge Program to reflect approved increases in salaries for sitting judges (increase of \$136,366 General Fund)
- JUD R5 Probation Supervisors and Staff (increase of \$109,010 General Fund and 2.1 FTE; decrease of \$30,750 cash funds)
- JUD R6 Self-represented Litigant Coordinators and Family Court Facilitators (increase of \$18,665 General Fund and 0.5 FTE; decrease of \$7,380 cash funds)
- JUD R7 Appellate Court FTE (increase of \$9,819 General Fund and 0.2 FTE; decrease of \$2,460 cash funds)
- JUD R9 Regional Trainers (increase of \$8,002 General Fund and 0.2 FTE; decrease of \$3,690 cash funds)
- JUD R12 Problem-solving Courts FTE (increase of \$5,675 General Fund and decrease of \$3,382 cash funds)
- JUD R10 Recruitment and Retention (increase of \$4,489 General Fund and 0.1 FTE; decrease of \$1,230 cash funds)
- OCR R2 FTE Increase (increase of \$3,410 General Fund)
- JUD R13 Language Access Administration (increase of \$3,294 General Fund and 0.1 FTE; decrease of \$1,230 cash funds)
- JUD R15 Restorative Justice Coordinator (increase of \$1,032 cash funds)
- JUD R11 Courthouse Capital and Infrastructure Maintenance (decrease of \$2,316,000 General Fund and \$1,991,550 cash funds)
- OADC R1 Staff Support (decrease of \$40,572 General Fund and increase of 0.1 FTE)

Other changes: The request includes several relatively small changes totaling \$27,005, including:

- Indirect cost assessment adjustments;
- A lease purchase payment adjustment;
- Inflationary increase in payments to exonerated persons; and
- Fund source adjustments.

Issue: Court-ordered Competency Evaluations and Services

The number of court-ordered competency evaluations and competency restoration services continues to rise annually, outstripping the Department of Human Services' capacity to provide such services and putting the Department at risk of legal action. The court, the prosecution, and the defense all play important roles in the process of addressing concerns about defendant's competency to proceed and should be involved in exploring options to improve the process.

SUMMARY:

- In 2008 the General Assembly passed legislation to create a new procedure to address concerns about a defendant's competency to proceed with the goal of avoiding delays in criminal cases, conserving state resources by eliminating unnecessary hospitalizations, and improving the health of defendants.
- In 2012 the Department of Human Services entered into a Settlement Agreement related to a legal challenge concerning the length of time pretrial detainees were waiting to receive competency evaluations and treatment to restore competency.
- In September 2015 the Department of Human Services requested funding to address continued growth in the number of court-ordered competency evaluations (particularly inpatient evaluations) and restoration services. The Department indicated that it is at risk of violating the terms of the Agreement and could be at risk for further legal action, including a contempt of court judgement. The Joint Budget Committee approved the Department's request for \$2.7 million General Fund for FY 2015-16, and the Department has submitted a request for \$4.1 million General Fund in continuation funding for FY 2016-17.
- An analysis of data concerning competency evaluation orders for the last three fiscal years reveals the following concerning trends:
 - A large percentage of all competency evaluation orders result in an opinion that the defendant is competent (47.2 percent in FY 2014-15);
 - Court-ordered inpatient evaluations are more likely to result in an opinion that the defendant was competent compared to outpatient evaluations; and
 - Individuals charged with a felony are more likely to be ordered for an inpatient evaluation but also more likely to be found competent, compared to those charged with a misdemeanor or lower level crime.

RECOMMENDATION:

At the end of this issue brief, staff has included a number of options to potentially improve the process of handling mental competency issues in criminal cases. Staff recommends that the Committee ask the Judicial Department, the Office of the State Public Defender, and the Office of the Alternate Defense Counsel to discuss whether they would support any of the options, or if they have any other suggestions that should be considered.

DISCUSSION:

Court Ordered Services Concerning a Defendant's Competency

In 2008, the General Assembly passed legislation³ to create a new procedure to address competency to proceed issues in adult criminal cases separate from not guilty by insanity issues. This act included the following legislative declaration:

"(1) The general assembly hereby finds and declares:

(a) It is in the best interest of the state to promote streamlined, effective and contemporary practices for evaluating competency to stand trial and for assisting defendants in restoration to competency;

(b) The number of defendants requiring competency evaluation and restoration services to establish competency to stand trial has more than doubled since 2001;

(c) This increase in demand for inpatient competency evaluations and restoration services has generated a significant backlog in county jails of defendants awaiting inpatient competency evaluation or restoration, resulting in a waiting list to receive these services; and

(d) The backlog and waiting list have adversely affected the court system, district attorneys, defendants, defense attorneys, county sheriffs and jails, and have resulted in litigation against the state.

(2) In order to address these issues, the general assembly finds the following legislation is necessary to encourage prompt judicial determination for persons undergoing competency evaluation or treatment, improve the health of defendants, avoid delays in criminal cases, and conserve state resources by eliminating unnecessary hospitalizations."

Based on a recent interim supplemental request submitted by the Department of Human Services to address continued growth in the number of court-ordered inpatient competency evaluations and court-ordered restoration services, it does not appear that the 2008 legislation has been successful in achieving the goals set forth above. Staff has organized this issue brief into the following five sections:

- Current statutory framework
- Settlement Agreement concerning wait times for competency evaluations and services
- Recent Funding Request Submitted by the Department of Human Services
- Increases in court-ordered mental health examinations and evaluations
- Potential statutory and other changes to consider

³ See House Bill 08-1392.

Current Statutory Framework

Competency Evaluation

The court may order a psychiatric evaluation to determine whether an individual with pending criminal charges (the defendant) is competent to proceed at a particular stage of the criminal proceeding.⁴ The issue of competency may be raised by the court, the defense, or the prosecution. A defendant is determined to be "incompetent to proceed" if he or she has a mental disability or developmental disability that: (1) prevents him or her from having sufficient present ability to consult with the defense attorney with a reasonable degree of rational understanding in order to assist in the defense; or (2) prevents him or her from having a rational and factual understanding of the criminal proceedings.⁵

The Department of Human Services is statutorily obligated to conduct a court-ordered competency evaluation and provide a report to the court. The evaluation can be conducted by or under the direction of the Department by a licensed physician who is a psychiatrist or a licensed psychologist. A competency evaluator is required to have some training in forensic competency assessments, or be in forensic training and practicing under the supervision of a psychiatrist or licensed psychologist who has forensic expertise.

The court has the discretion to determine the location for a competency evaluation, but the court is required to give priority to the place where the defendant is in custody. An "inpatient" evaluation is required to be conducted at CMHIP.⁶ An "outpatient" evaluation is also conducted by CMHIP staff or CMHIP contractors, but the evaluation is done at the county jail, prison, or juvenile detention facility where the defendant is in custody, or at another location in the community if the defendant is released on bond.

Not all competency evaluation orders result in the completion of a competency report to the court, as the competency examination order may be subsequently withdrawn by the court for a variety of reasons.⁷ The Department of Human Services indicates that 12 to 15 percent of competency evaluations ordered each year are not completed, either due to the charges being dropped or to new orders issued to change the evaluation location between inpatient and outpatient settings.

Following the preparation of an *inpatient* competency evaluation, CMHIP is required to "present to the court an accounting of the cost, evidenced by a statement thereof based upon the established per diem rate of the place of confinement".⁸ The corresponding payments from the Judicial Department to the Department of Human Services totaled \$370,836 in FY 2013-14; over

⁴ Section 16-8.5-101, *et seq.*, C.R.S.

⁵ It is staff's understanding that there is a long-standing legal recognition that a criminal trial of an incompetent defendant violates the defendant's right to due process of law and the right to have assistance of counsel for his defense.

⁶ Please note that there are a few individuals who are routed for admission and treatment at the Colorado Mental Health Institute at Fort Logan.

⁷ For example, Section 16-8.5-116 (1), C.R.S., states that an individual may not be confined for a period in excess of the maximum term of confinement that could be imposed for the offenses with which the defendant is charged, less any earned time.

⁸ Section 16-8.5-115, C.R.S.

the last 14 years, these payments have ranged from \$79,236 to \$428,220. It is staff's understanding that CMHIP currently charges the court \$36/day for any inpatient juvenile or adult mental health evaluations (including those unrelated to competency). This rate dates back to at least the mid-1970s. This rate covers only 5.3 percent of the FY 2015-16 inpatient daily rate at CMHIP for Forensic Psychiatry of \$676 per day.

Restoration Treatment

If a defendant is determined to be incompetent to proceed, the court has two options:⁹

- If the defendant is released on bond, the court may require as a condition of that bond that the defendant obtain any treatment or habilitation services that are available to the defendant in the community. Statute requires, however, that there to be a presumption that the incompetency of the defendant will inhibit the ability of the defendant to ensure his or her presence for trial.
- If the court finds the defendant is not eligible for release from custody, the court may commit the defendant to the custody of the Department so that the defendant can receive restoration to competency services on an inpatient basis.

It is staff's understanding that services that are provided to restore an individual's competency may differ from those provided to a patient with a different legal standing (*e.g.*, an involuntary civil commitment), and may not necessarily address all of a patient's symptoms or mental health needs.¹⁰

Current law is silent concerning the qualifications of individuals who provide competency restoration treatment. The Department of Human Services utilizes a multidisciplinary team consisting a psychiatrist, psychologist, social worker, nursing staff, mental health clinicians, and other clinical disciplines. Once the defendant's multidisciplinary treatment team determines that competency has been restored, the Department conducts a competency evaluation. If the Department evaluator agrees, the Department prepares a report to the court; the court determines whether the defendant is restored to competency. At such time as the Department recommends to the court that the defendant is restored to competency, the defendant may be returned to custody of the county jail or to previous bond status.

⁹ Section 16-8.5-111, C.R.S.

¹⁰ In a 2003 decision [*Sell v. United States*, 539 U.S. 166 (2003)], the U.S. Supreme Court imposed limits on the right of a lower court to order the forcible administration of antipsychotic medication to a criminal defendant who had been determined to be incompetent to stand trial for the sole purpose of making them competent and able to be tried.

Settlement Agreement Concerning Wait Times for Competency Evaluations and Services

The Center for Legal Advocacy (the Center) brought a legal action¹¹ against the Department of Human Services to challenge the length of time it was taking for pretrial detainees in Colorado jails to receive competency evaluations or restorative treatment. The parties resolved the claim through a Settlement Agreement in April 2012. The Agreement was initially effective beginning July 1, 2012, for a ten year period. However, the term of the Agreement could be periodically reduced when Department has fully complied with the terms of the Agreement in the preceding year. Based on compliance from July 2012 through June 2014, the Agreement term has been reduced by two years. The U.S. District Court for Colorado retains jurisdiction for the purpose of enforcing the terms of the Agreement for the entire duration of the Agreement and for 60 days after CMHIP provides the final monthly report.

The Agreement requires the Department to:

- admit pretrial detainees¹² to CMHIP for inpatient competency evaluations or restorative treatment no later than 28 days after he or she is ready for admission¹³;
- maintain a monthly average¹⁴ of 24 days or less for admission to CMHIP for inpatient evaluations or restorative treatment; and
- complete all outpatient competency evaluations of pretrial detainees no later than 30 days after CMHIP's receipt of a court order directing the evaluation and receipt of collateral materials.

The Department of Human Services is required to provide monthly reports concerning all pretrial detainees referred to CMHIP for inpatient competency evaluations, outpatient competency evaluations, or restorative treatment.

The Agreement recognizes that to some extent the Department's ability to perform its obligations under the Agreement is based on factors beyond its control. The Agreement allows the time frame requirements to be temporarily suspended or delayed due to two types of special circumstances:

¹¹ *Center for Legal Advocacy d/b/a The Legal Center for People with Disabilities and Older People v. Reggie Bicha, in his official capacity as Executive Director of the Colorado Department of Human Services, and Teresa A. Bernal, in her official capacity as Interim Superintendent of the Colorado Mental Health Institute at Pueblo*, Case No. 11-cv-02285-BNB (D. Colo.).

¹² "Pretrial detainee" means a person who is being held in the custody of a county jail, and whom a court has ordered to undergo an outpatient evaluation in the county jail, an inpatient evaluation at CMHIP, or restorative treatment at CMHIP. Persons serving a sentence in the Department of Corrections, juveniles, and persons on bond are excluded from the Agreement.

¹³ "Ready for admission date" means the date on which CMHIP has received the court order for admission to CMHIP, and, in the case of a court-ordered competency evaluation, CMHIP has received the collateral materials required for the evaluation. "Collateral materials" are the police incident reports for the offense and the charging documents.

¹⁴ "Monthly average" means the average timeframe for admission for all pretrial detainees within that calendar month who (1) were admitted to CMHIP for inpatient competency evaluations or restorative treatment; or (2) have an outpatient competency evaluation performed at the county jail.

- "*Individual Special Circumstances*" means a situation that delays the offering of admission to an individual pretrial detainee, where the circumstances are not within the control of the Department (e.g., the court, jail, or defense counsel requests that admission be delayed because they are seeking a more appropriate placement; or the inmate is not medically cleared for admission due to illness or other non-psychiatric medical need). Under such a circumstance, the Department may notify the Center.
- "*Departmental Special Circumstances*" means circumstances beyond the control of the Department which impact CMHIP's ability to comply with the Agreement timeframes (e.g., an unanticipated spike in referrals or a substantial and material decrease in CMHIP's budget). The parties are required to confer to review the reasons for invocation and to determine issues for resolution. The Department is then required to submit in writing a proposal to address the issues.

The parties agreed to "work together in good faith to ensure the cooperation of other interested groups such as the State Judiciary, District Attorneys, Public Defenders, and County Sheriffs in the successful implementation of this Agreement".

The annual reports prepared by the Center for FY 2012-13 and FY 2013-14 indicate that the Department fully complied with the required time frames. In comparison to the required monthly average for all inpatient admissions (24 days), the monthly average during these two fiscal years ranged from six to 14 days.

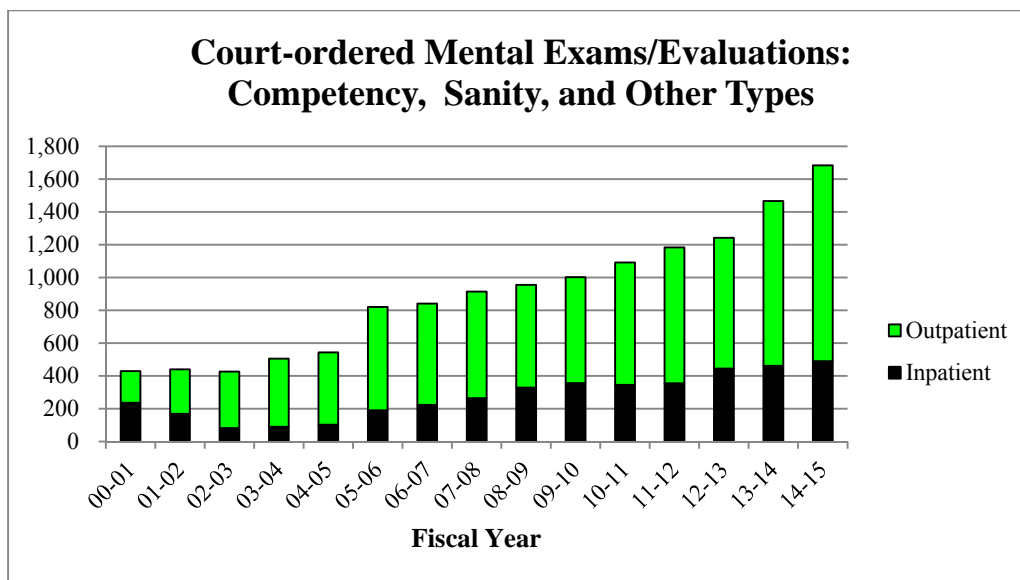
Recent Funding Request Submitted by the Department of Human Services

In September, the Department of Human Services requested \$2.7 million General Fund to address continued increases in the number of court-ordered competency evaluations and restorations to competency. The Department indicated that it does not have sufficient psychologist staff or bed space capacity to meet the demand for inpatient competency services. If the problem is not addressed, the Department is at risk of violating the terms of the Agreement and could be at risk for further legal action, including a possible contempt of court judgment. The Committee approved the request, and agreed to seek approval by the General Assembly by introducing a supplemental bill in the 2016 Session. The Department has also requested \$4.1 million General Fund in continuation funding in FY 2016-17 (R3).

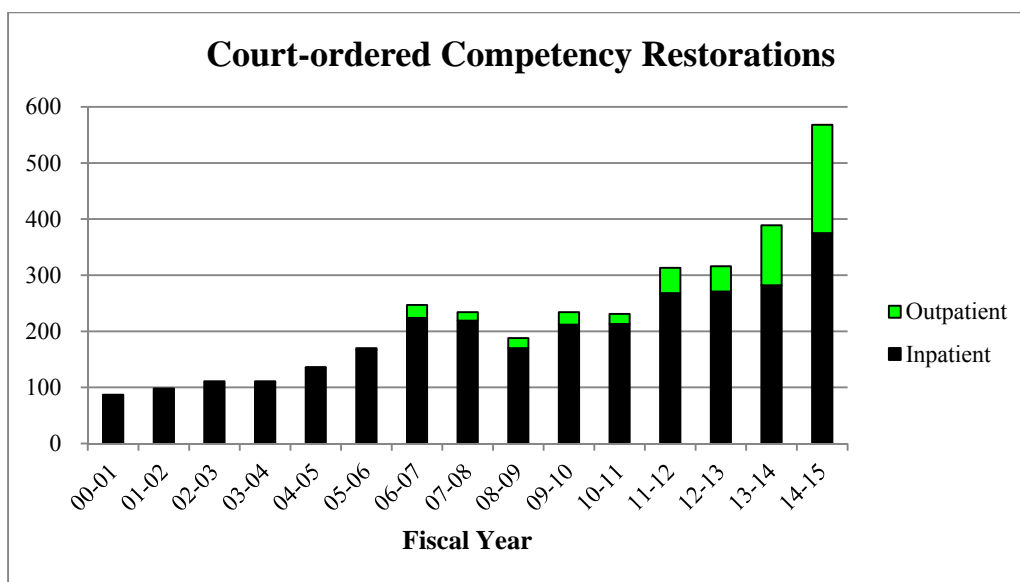
The Department of Law recently indicated that the Center has alleged that CMHIP violated the terms of the Agreement and recently filed a Motion to Reopen Action for Enforcement of Agreement, arguing that the provision suspending the timeframes is not applicable. The State's response is due November 18, 2015.

Increases in Court-ordered Mental Health Examinations and Evaluations

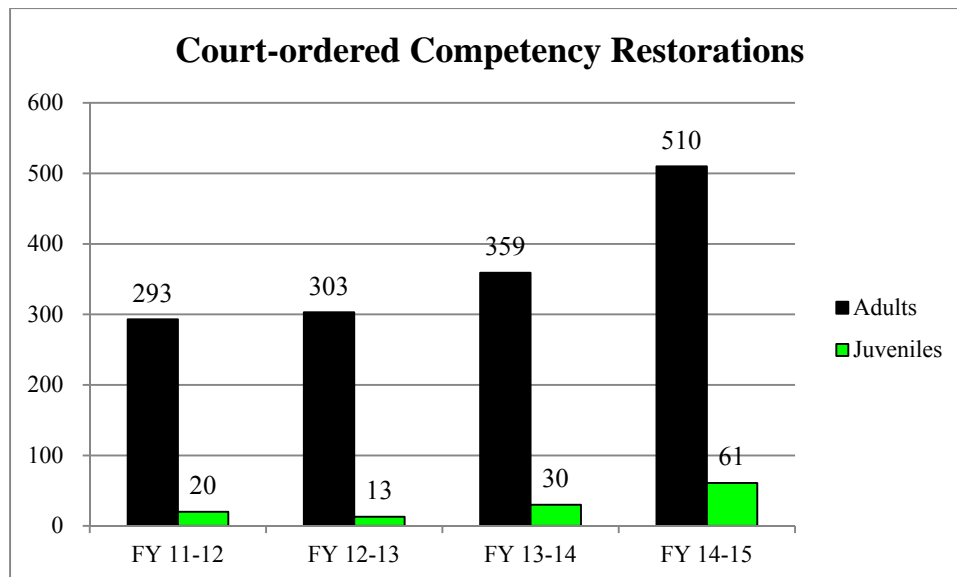
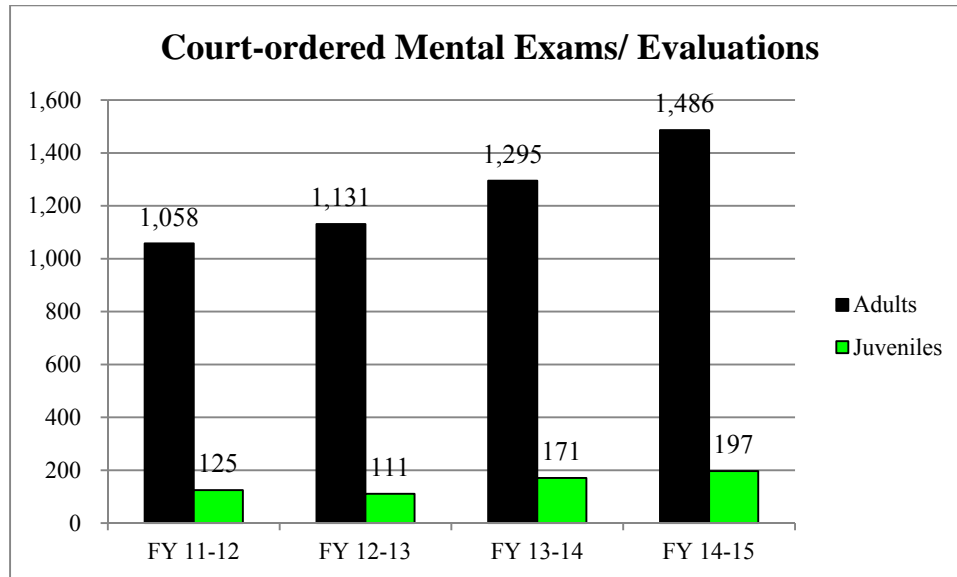
The Department of Human Services provided data that clearly demonstrates that the number of court-ordered mental exams and evaluations (of all types, not just competency) have increased significantly over the last 15 years. The following chart illustrates the steady increase in court-ordered mental exams and evaluations since FY 2000-01, broken out between inpatient and outpatient settings. The percent of evaluation orders that are inpatient has ranged from 17.8 percent (FY 2003-04) to 55.0 percent (FY 2000-01); in FY 2014-15, 41.0 percent of evaluation orders were inpatient (490 of 1,194).



Similarly, as illustrated in the following chart, the number of court-ordered competency restorations has increased over the same period, with the most significant increases occurring in the last two fiscal years.



Additional data for the last four fiscal years reveals that recent increases have occurred for both adults and juveniles, as illustrated in the following two tables.



A breakdown of the number of court-ordered mental exams and evaluations and restorations by criminal charge level indicates that the majority of orders concern defendants facing higher level charges. For example, 69 percent of court-ordered mental exams and evaluations concern adults facing felony charges, and 70 percent of court ordered competency restorations concern adults facing felonies. The following table summarizes this information for both adults and juveniles for FY 2014-15.

JBC Staff Budget Briefing: FY 2016-17
Staff Working Document – Does Not Represent Committee Decision

Breakdown of Court-ordered Mental Exams/ Evaluations and Restorations by Charge Level: FY 2014-15				
	Felony	Misdemeanor	Other	Total
<u>Adults</u>				
Exams/ Evaluations	69.0%	29.7%	1.3%	100.0%
Restorations	70.2%	29.6%	0.2%	100.0%
<u>Juveniles</u>				
Exams/ Evaluations	58.4%	36.5%	5.1%	100.0%
Restorations	75.4%	23.0%	1.6%	100.0%

The Department of Human Services provided data to the Judicial Department concerning competency evaluation orders for the last three fiscal years by judicial district, by judge, by charge class, and by resulting opinion. An analysis of this data reveals some interesting trends:

- A large percentage of all competency evaluation orders result in an opinion that the defendant is competent. However, this percentage has decreased over the last three fiscal years from 56.6 percent to 47.2 percent.
- Individuals charged with a felony are more likely to be ordered for an inpatient evaluation compared to those charged with a misdemeanor or lower level crime. In FY 2012-13, 80.9 percent of inpatient evaluations were for individuals charged with a felony, compared to 61.6 percent of outpatient evaluations. In the last two fiscal years this gap has decreased, with 74.8 percent of inpatient evaluations in FY 2014-15 involving felony charges compared to 64.4 percent of outpatient evaluations.
- Surprisingly, in each of the last three fiscal years, court-ordered inpatient evaluations were more likely to result in an opinion that the defendant was competent compared to outpatient evaluations. In FY 2012-13, 204 of the 309 individuals (66.0 percent) ordered for inpatient evaluations were determined to be competent, compared to 311 of the 601 individuals (51.7 percent) ordered for outpatient evaluations. This disparity has narrowed only slightly in the last two years, with 57.0 percent of inpatient evaluations resulting in competent opinions last year compared to 43.6 percent of outpatient evaluations.
- Individuals charged with a felony are more likely to be found competent than those charged with a misdemeanor or lower level crime. In FY 2012-13, 62.1 percent of those charged with felonies were found to be competent compared to 45.2 percent of those charged with misdemeanors and 30.8 percent of those charged with lower level offenses. For those charged with felonies who were ordered for an inpatient evaluation, more than two-thirds (69.2 percent) were found to be competent.

The above trends appear to indicate that judges' decisions to order competency evaluations – and in particular inpatient competency evaluations – are more influenced by the seriousness of the crime charged than the defendant's risk to the community or the likelihood of a defendant being found incompetent to proceed.

Potential Statutory and Other Changes to Consider

Based on information provided by the Department of Human Services, discussions with various mental health providers and defense attorneys, and research concerning best practices, staff offers some potential options to improve the process of handling mental incompetency issues in the criminal justice system.

- *Judicial Discretion to Order Inpatient Evaluations.* The Department of Human Services indicates that there are instances in which a person is admitted to CMHIP and appears clearly competent at the time of admission. The Department notes that involuntary hospitalization is a "massive curtailment of liberty" and should be reserved for those defendants whose condition is such that they would meet other criteria for inpatient treatment, such as being gravely disabled or an imminent danger to self or others. Further, the Department indicates that it is inappropriate for the court to order a competency evaluation for a defendant solely as a means of obtaining mental health treatment because the jail is not providing such treatment. The Department indicates that Colorado is one of the only states in the country that delegates discretion to judges to involuntarily hospitalize a defendant based only on a question of that person's competency to proceed to trial. The Department suggests amending Section 16-8.5-103, C.R.S., to limit a judge's ability to order an inpatient competency evaluation to situations where:
 - The court believes the defendant would meet the involuntary commitment criteria under Section 27-65-105, C.R.S.;¹⁵ or
 - After written approval of the Executive Director of the Department of Human Services.
- *Court Payments for Inpatient Competency Evaluation Services.* Current law requires CMHIP to bill the court for the cost of housing defendants for the purpose of conducting an inpatient competency evaluation. The policy objective of this provision is not clear. However, given that CMHIP currently charges only \$36 per day for a service that costs \$676 per day, it is not likely that this provision is significantly impacting court decisions. The General Assembly could consider requiring CMHIP to bill the court for the actual cost of these services and shift General Fund appropriations from CMHIP to the courts accordingly (and increasing the appropriation to CMHIP from reappropriated funds by the same amount). However, some mental health experts express concerns that this may result in the courts making inappropriate decisions about competency evaluations based on financial constraints. Another option is to eliminate this requirement in conjunction with the above change to court discretion, and shift the General Fund from the courts to CMHIP to directly support the cost of conducting competency evaluations.
- *Outpatient Competency Evaluation Resources.* If the General Assembly were to make a statutory change that is effective in reducing the number of referrals for inpatient competency evaluations, it would alleviate the pressure on the system and aid in the timely completion of evaluations. However, it would also be necessary to ensure that the Department of Human

¹⁵ Section 27-65-105, C.R.S., authorizes a person to be taken into custody for a 72-hour treatment and evaluation if the person "appears to have a mental illness and, as a result of such mental illness, appears to be an imminent danger to others or to himself or herself or appears to be gravely disabled".

Services has sufficient and appropriate resources to meet the demand for timely outpatient evaluations in all regions of the state and to instill court confidence in outpatient evaluation reports. Potential options to consider include:

- Modifying Section 16-8.5-103 (2), C.R.S., to clearly authorize the Department of Human Services to contract with individuals or entities to conduct outpatient competency evaluations and prepare evaluation reports for the court.
 - Making statutory and rule changes to allow masters level clinicians to perform competency evaluations if they have forensic training and are supervised by a psychiatrist or licensed psychologist who has forensic expertise (this would be particularly important in rural areas of the state).
 - Provide the Department with the authority and resources necessary to establish a data-driven system of monitoring the quality and consistency of competency evaluations and the ability to address individual outliers.
- *Educating Judicial Officers.* Encourage the Department of Human Services to monitor the outcomes of court-ordered competency evaluations by judge (*i.e.*, the percent of a judge's orders that result in an opinion of competent versus incompetent) and to provide periodic reports to the Courts. Encourage the two agencies to work together in educating judicial officers about competency evaluation and restoration services, and ensuring that judicial officers have the information and tools necessary to make sound decisions.
 - *Judicial Discretion to Determine Location for a Competency Evaluation.* It is best practice for both inpatient and outpatient competency evaluations to be performed in the least restrictive environment for the level of risk the defendant presents. This decision is a bond decision that should be made using the same factors as any other case.¹⁶ Consider modifying statute, if necessary, to require the court to use an appropriate risk assessment tool to determine a defendant's eligibility for a personal recognizance bond and to determine the most appropriate location for a competency evaluation.

Staff recommends that the Committee ask the Judicial Department, the Office of the State Public Defender, and the Office of the Alternate Defense Counsel to discuss the above options at their budget hearing, and to offer any other options that should be considered by the General Assembly.

¹⁶ Source: The National Judicial College, Mental Competency – Best Practices Model [www.mentalcompetency.org]

Issue: Rates Paid for Mental Health Evaluations

This issue brief discusses the Judicial Department's response to a Joint Budget Committee request for information concerning the compensation of expert witnesses and professionals who conduct sanity or competency-related mental health evaluations.

SUMMARY:

- In order to control expenditures of state funds in court cases, there is a Chief Justice Directive that limits the compensation of expert witnesses and professionals who are paid by the Judicial Department for conducting mental health evaluations, competency evaluations, and sanity evaluations.
- For FY 2015-16, the General Assembly provided \$279,153 General Fund for the Judicial Department to increase the rates paid to professionals who conduct mental health evaluations *related to competency or sanity* by 50 percent. This funding was not intended to change any of the existing limitations on the maximum number of hours allowed for such evaluations or for related testimony, travel, or wait time.
- In connection with this budget increase, the Joint Budget Committee sent a letter to Chief Justice Rice requesting a report to better inform the Committee about the adequacy of the compensation for mental health expert witnesses and professionals.

RECOMMENDATION:

Based on the Department's response to the Committee's request for information, there appears to be some statutory ambiguity about the circumstances under which the prosecution or the defense is required to pay the costs of second competency or sanity evaluations. Staff recommends that the Committee sponsor (or support) legislation to address this ambiguity. In addition, there appear to be some differences of opinion about whether the existing hourly fee and total fee limitations in CJD 12-03 are high enough to allow a qualified professional to spend a sufficient number of hours to complete an evaluation, prepare a report, and testify as an expert witness at a court hearing.

To better inform the Committee about potential statutory changes to address the ambiguity and potential changes to rates in the future, staff recommends that the Committee ask the Judicial Department, the Office of the State Public Defender, and the Office of the Alternate Defense Counsel to each respond to the following questions at their budget hearing. Staff also suggests that the Committee invite the Department of Law and the Colorado District Attorneys' Council (CDAC) to provide written responses to the same questions.

- Should the party requesting a second competency evaluation or a second sanity evaluation be required to pay the costs of such an evaluation, regardless of whether it is conducted by the Department of Human Services or by a private professional?
- If either the prosecution or the defense requests a second competency or a second sanity evaluation, should that party be required to provide the resulting report to the court?
- Should the Department of Human Services consider taking actions to improve the quality and consistency of competency evaluations to reduce the number of requests for a second competency evaluation?
- Should CJD 12-03 differentiate the maximum hourly rates paid for sanity, competency, and other types of mental health evaluations?
- Should CJD 12-03 differentiate the presumptive cap on total fees (and thus the allowable number of hours for which an hourly fee will be paid) for sanity, competency, and other types of mental health evaluations?
- Should the maximum number of paid hours for travel be increased for certain geographic areas of the state?
- Should CJD 12-03 limit the number of hours that an evaluator is paid to wait when the circumstances are beyond his or her control (*i.e.*, waiting to appear in court or waiting to see a defendant in custody)?
- Should judges be required to set a hearing or to allow *ex parte* presentation of information during such hearing when the defense or the prosecution requests approval to exceed the limits established by CJD 12-03?

DISCUSSION:

Applicable Chief Justice Directive

In order to control expenditures of state funds in court cases, there is a Chief Justice Directive that limits the compensation of expert witnesses and professionals who are paid by the Judicial Department for conducting mental health evaluations, competency evaluations, and sanity evaluations (CJD 12-03). This Directive does not apply to employees or contractors paid by the Colorado Mental Health Institute at Pueblo (CMHIP) or other government mental health agencies for work performed at their direction.

Prior to July 1, 2015, the Directive established a cap of \$100 on the hourly fee paid to a professional for a mental health evaluation. The Directive also included a presumptive cap of \$1,000 (exclusive of authorized travel and lodging expenses) on the total amount paid per case, or \$1,500 if the professional completes an evaluation and subsequently testifies as an expert witness at a court hearing in the case. The court may authorize fees in excess of these presumptive limits based on justification from the requesting party that they are unable to obtain such services at or below that cap.

FY 2015-16 Funding to Increase Certain Rates

Appropriations for the Judicial Branch for FY 2015-16 include an increase of \$279,153 for payments to witnesses and professionals who conduct mental health evaluations *related to competency or sanity*. This funding increase was intended to cover the costs of raising the maximum hourly rate by 50 percent (from \$100 to \$150), assuming no change in the maximum number of hours per evaluation. This funding increase included:

- \$126,972 for the Trial Courts;
- \$114,438 for the Office of the State Public Defender; and
- \$37,743 for the Office of the Alternate Defense Counsel.

No additional funding was provided for District Attorney offices as the Colorado District Attorneys' Council (the organization that administers the state funding for such expenses) already allowed up to \$150 per hour for qualifying experts (including those with either a Doctor of Medicine or Psychology).

Chief Justice Directive 12-03 has been amended to reflect this funding change, including an increase in the presumptive caps per case to \$1,500 per evaluation or \$2,250 for an evaluation accompanied by expert testimony. The provisions of CJD 12-03 that allow 100 percent of the authorized hourly rate to be paid for reasonable preparation time and in-court testimony and allow 50 percent of the authorized hourly rate to be paid for up to six hours of travel time or time spent waiting, remain unchanged.

Request for Information

In connection with the funding increase described above, the Joint Budget Committee sent a letter to Chief Justice Rice requesting information concerning state expenditures for compensation of expert witnesses and professionals who conduct mental health examinations or evaluations of juveniles or adults concerning either sanity or competency. The specific questions listed in the Committee's request are included below along with summaries of the responses provided by the various judicial agencies and the CDAC.

(1) An explanation of the circumstances under which the court pays for such services and when such services must be paid by district attorneys' offices, the Office of the Public Defender (OSPD), or the Office of the Alternate Defense Counsel (OADC):

The Judicial Department indicated that the court is required to pay for most competency and sanity evaluations. The initial competency or sanity evaluation is generally done at CMHIP, and the Department of Human Services (DHS) pays for the evaluation while the Judicial Department pays DHS a daily bed rate for the inpatient services (\$36/day). Either the defense or the prosecution may request a second competency or sanity evaluation, but the prosecutor can only request a second sanity evaluation if "good cause" is shown. If a second competency or sanity evaluation at CMHIP is requested by the defense or prosecutor, again DHS pays for the evaluation while the Judicial Department pays DHS the daily bed rate. However, if the defense requests that a second competency or sanity evaluation be done by a private evaluator, generally the defense pays for the cost of the evaluation. There is some ambiguity in the

statutes as to who pays for the defense chosen second competency evaluation, so there are times the judge orders the court to pay, but typically the defense pays the cost.

The OSPD noted that the second competency evaluation is only paid by the court in an adult criminal case. The OSPD usually pays for all other evaluations, including:

- Confidential evaluations as part of a constitutionally effective investigation of mental health issues in preparation for trial; and
- Confidential evaluations prepared for purposes of plea negotiations or sentence mitigation.

The OADC indicated that if the defense does not agree or contests the results of the initial competency evaluation, the defense has to pay for a second evaluation and can choose the evaluator. If the prosecution disagrees or objects to the results of the initial evaluation and wants a second evaluation, they pay for the second evaluation. The same goes for any second evaluation when there is a plea of not guilty by reason of insanity.

Consistent with the Judicial Department, the CDAC noted that the District Attorney never pays for either competency or sanity evaluations. The CDAC also indicated that the prosecutor may request either a second competency or a second *sanity* evaluation; "good cause" does not need to be shown for a second competency evaluation but it must be shown for a second sanity evaluation.

(2) Total expenditures of state funds appropriated to the Judicial Branch for FY 2014-15 for such services:

The Judicial Department indicated that it was not able to confirm the exact type of evaluations invoiced and paid in FY 2014-15, but it estimates that it paid \$226,502 for private competency or sanity evaluations.

OSPD indicated that it spent \$505,898.58. Staff assumes that this figure includes all types of mental health evaluations.

OADC indicated that it spent a total of \$333,213 in FY 2014-15, including \$228,237 for Psychologists (the other expenses were for Psychiatrists or Neurologists). The majority of these expenditures were not for purposes of competency or sanity.

(3) The range of hourly rates paid with state funds in FY 2014-15 for such services:

The Judicial Department indicated that, based on a review of 126 invoices for sanity or competency evaluations, an hourly rate of \$100 was paid most (96 percent) of the time. The hourly rates paid for five of the invoices ranged from \$140 to \$295. The OSPD paid an average hourly rate of \$100, and the OADC paid hourly rates ranging from \$100 to \$150. The CDAC indicated that District Attorneys paid experts in the field of sanity and

competency at an hourly rate of \$150 (up to a total of \$1,500) if they qualified as expert witnesses; non-qualifying experts were paid an hourly rate of \$80 (up to a total of \$800).

(4) Whether the existing limitation on the hourly fee paid for such services in CJD 12-03 is high enough to attract a reasonable number of qualified professionals to perform such services:

The Judicial Department stated that judges have not indicated there are issues attracting a reasonable number of qualified professionals given the existing limitation on the hourly fee paid, and the OADC indicated that it has not had any problem getting qualified people for competency or sanity evaluations.

The OSPD indicated that it does not foresee difficulties in attracting qualified professionals to conduct mental health evaluations at an hourly rate of \$150 within the geographic band between the Denver metro area and Pueblo. However, due to the shortage of qualified evaluators outside this geographic band, the OSPD expects that it will continue to need to pay evaluators to travel to areas outside the geographic band, resulting in a substantial number of travel hours at \$75/hour.

(5) Whether the existing maximum fee per case limitation in Chief Justice Directive 12-03 is high enough to allow a qualified professional to spend a sufficient number of hours to complete a required evaluation, prepare a report, or testify as an expert witness at a court hearing:

The Judicial Department indicated that professionals were paid total fees at or below the presumptive maximum 79 percent of the time.

The OSPD indicated that, as currently written, the maximum fee limitations in CJD 12-03 and the limitation on paid travel and wait time are not adequate to attract a qualified professional to:

- provide an evaluation of dependable quality for the typical client (including interviewing the client, reviewing records, interviewing family members, interviewing the attorney and other relevant witnesses, reading discovery, and reading through all existing relevant mental health records);
- prepare for and provide testimony in court; or
- travel to non-metro areas such as Cortez, Craig, or Lamar.

In addition, the OSPD notes that wait time is beyond the control of the evaluator or the agency requesting the evaluation. Instead, this time is controlled by the timeliness of the court proceedings and the facilities where a defendant may be in custody.

Finally, the OSPD indicated that CJD 12-03 allows (but does not require) a judge to grant, deny, or set a hearing on any motion to exceed the hourly rate. What this translates to

is that the judge may deny a motion to exceed without the opportunity for a hearing on the motion. In addition to requiring the judge to set a hearing on a motion to exceed, the OSPD recommends that CJD 12-03 include a mechanism for ex parte presentation of information justifying a greater number of hours so that a lawyer is not compelled to disclose privileged information in front of opposing counsel when compelled to explain a deviation from the maximums.

The OADC indicated that its contractors do complain that the initial competency evaluations sometimes are not very thorough or accurate, and these inadequacies could very well be based on the restrictions on the total number of hours.

(6) Whether Chief Justice Directive 12-03 should be modified to increase the maximum hourly fee or the maximum fee per case for certain types of professionals or certain types of services and the fiscal impact of any such modifications on each affected judicial agency:

The Judicial Department indicated that "a qualitative assessment would be needed to study whether maximums should be increased again any time soon".

The OSPD indicated that while the amendments to CJD 12-03 only increased compensation for sanity and competency evaluations, it expects that professionals conducting other types of mental health evaluations will challenge their inability to receive an hourly fee of \$150. The OSPD thus recommends increasing the maximum hourly fee to \$150 for all experts and evaluators mentioned in CJD 12-03.

The OADC provided a similar response, indicating that it has already had requests from psychologists who have been paid hourly rates of \$100 to be paid at a rate of \$150 based on the amended Directive.

Staff Recommendation

Based on the responses to the above questions, there appears to be some statutory ambiguity about the circumstances under which the prosecution or the defense is required to pay the costs of second competency or sanity evaluations. Staff recommends that the Committee sponsor (or support) legislation to address this ambiguity. In addition, there appear to be some differences of opinion about whether the existing hourly fee and total fee limitations in CJD 12-03 are high enough to allow a qualified professional to spend a sufficient number of hours to complete an evaluation, prepare a report, and testify as an expert witness at a court hearing.

To better inform the Committee about potential statutory changes to address the ambiguity and potential changes to rates in the future, staff recommends that the Committee ask the Judicial Department, the OSPD, and the OADC to each respond to several questions (listed within the "Recommendation" section at the beginning of this issue brief). Staff also suggests that the Committee invite the Department of Law and the CDAC an opportunity to provide written responses to the same questions.

Issue: Development and Implementation of a Statewide Discovery Sharing System

This issue brief provides an update on the status of the development of a statewide discovery sharing system, including a revised project timeline and updated projections of General Fund appropriations required for future fiscal years.

SUMMARY:

- Colorado Supreme Court rules require the prosecution to make available to the defense certain material and information and to provide duplicates upon request. The State pays the costs of duplicating the discoverable material when legal representation is provided for an indigent defendant. In FY 2014-15, judicial agencies paid a total of \$2.5 million General Fund to obtain discoverable materials from District Attorneys and the Department of Law.
- There is a long history of disagreement between the defense and the prosecution concerning discovery-related reimbursements, and some of these disputes have required court action to resolve. Since March 2009 the Joint Budget Committee has taken several actions to facilitate resolution of this issue, including sponsoring legislation that requires the Colorado District Attorneys' Council (CDAC) to develop and maintain a statewide discovery sharing system integrated with its ACTION case management system. To date, the General Assembly has appropriated \$5.3 million General Fund for this project.
- Current law requires the discovery sharing system is to be completed and operational statewide by October 31, 2016. Once this system is operational, existing General Fund appropriations that are used to reimburse the prosecution for the cost of duplicating discoverable materials will be repurposed to fund the ongoing costs of the discovery sharing system and the ACTION system.
- Based on the procurement process and the resulting vendor contract, the CDAC is seeking a statutory change to delay the required statewide implementation date by seven months (to May 31, 2017) to align with the benchmarks contained in the vendor contract. Staff estimates that a General Fund appropriation of \$1.7 million will be required for FY 2016-17, and an annual General Fund appropriation of \$0.5 million will be required for subsequent years. The Judicial Department's budget request for FY 2016-17 does not yet include any new funding for this project.

RECOMMENDATION:

Staff recommends that the Committee consider sponsoring legislation to delay the required statewide implementation of the discovery sharing system, as proposed by the CDAC.

DISCUSSION:

State Expenditures for Discoverable Materials

Colorado Supreme Court Rule 16 requires the prosecuting attorney to make available to the defense certain material and information and to provide duplicates upon request. However, defense counsel is required to pay the costs of duplicating discoverable material, and the State covers these expenses when state-paid legal representation is provided for a defendant. Several agencies within the Judicial Department incur expenditures related to discoverable materials. As detailed in Table 1, total state discovery-related expenditures have increased annually in each of the last eight years, more than doubling over that time period. The vast majority of these expenses are incurred by the Office of the State Public Defender (OSPD) and the Office of the Alternate Defense Counsel (OADC).

TABLE 1: State Expenditures Related to Discovery						
Fiscal Year	Courts/ Probation	Office of the State Public Defender	Office of the Alternate Defense Counsel	Office of the Child's Representative	Total	Annual % Change
FY 2006-07	\$38,514	\$761,495	\$435,361	\$13,235	\$1,248,605	
FY 2007-08	49,728	886,112	470,098	11,274	1,417,211	13.5%
FY 2008-09	39,615	969,306	567,917	0	1,576,838	11.3%
FY 2009-10	36,737	1,125,966	635,061	0	1,797,764	14.0%
FY 2010-11	25,549	1,514,957	599,872	9,107	2,149,485	19.6%
FY 2011-12	35,458	1,623,452	626,180	13,418	2,298,508	6.9%
FY 2012-13	35,515	1,751,829	648,392	21,219	2,456,955	6.9%
FY 2013-14	36,072	1,932,652	729,605	24,354	2,722,683	18.5%
FY 2014-15	65,638	2,103,438	778,445	23,250	2,970,771	20.9%
<i>% of Total</i>	2.2%	70.8%	26.2%	0.8%	100.0%	

While most discovery-related expenditures are reimbursements paid to the prosecution as required by Rule 16, expenses are incurred for other reasons. For example, the OADC pays a contractor to scan paper files provided by the prosecution in certain jurisdictions so that they can be electronically formatted and distributed to multiple attorneys representing different defendants in a single case. Judicial agencies also make payments for other types of records such as birth and medical records, background checks, and county departments of human services records.

As detailed in Table 2, a total of \$2.5 million (86.0 percent) of discovery-related expenditures were made to district attorney offices or the Department of Law in FY 2014-15. Five of the 22 judicial district attorney offices (shaded in Table 2) account for two-thirds of the state expenditures for discovery-related reimbursements.

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TABLE 2: Discovery-related Payments to Judicial Districts and the Department of Law, FY 2014-15						
Description	Courts/ Probation	Office of the State Public Defender	Office of the Alternate Defense Counsel	Office of the Child's Representative	Total	Percent of Total
Payments to District Attorneys' Offices, by Judicial District:						
1 (Jefferson, Gilpin)	\$10,871	\$194,918	\$55,262	\$4,882	\$265,933	10.41%
2 (Denver)	3,021	536,661	155,393	0	695,075	27.21%
3 (Huerfano, Las Animas)	0	13,643	4,248	0	17,891	0.70%
4 (El Paso, Teller)	0	250,972	42,387	4,025	297,384	11.64%
5 (Clear Creek, Eagle, Lake, Summit)	0	14,697	2,482	0	17,179	0.67%
6 (Archuleta, La Plata, San Juan)	0	32,778	9,196	0	41,974	1.64%
7 (Delta, Gunnison, Hinsdale, Montrose, Ouray, San Miguel)	0	21,020	3,672	0	24,692	0.97%
8 (Jackson, Larimer)	0	126,887	12,711	0	139,598	5.46%
9 (Garfield, Pitkin, Rio Blanco)	0	26,983	18,869	0	45,852	1.79%
10 (Pueblo)	0	81,031	33,750	0	114,781	4.49%
11 (Chaffee, Custer, Fremont, Park)	0	64,875	42,539	0	107,414	4.20%
12 (Alamosa, Conejos, Costilla, Mineral, Rio Grande, Saguache)	0	24,378	6,925	0	31,302	1.23%
13 (Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Yuma)	0	27,531	18,096	0	45,626	1.79%
14 (Grand, Moffat, Routt)	0	21,897	825	0	22,722	0.89%
15 (Baca, Cheyenne, Kiowa, Prowers)	0	9,922	1,786	0	11,707	0.46%
16 (Bent, Crowley, Otero)	0	14,312	6,786	0	21,098	0.83%
17 (Adams, Broomfield)	0	137,511	20,995	0	158,506	6.20%
18 (Arapahoe, Douglas, Elbert, Lincoln)	2,802	229,118	65,647	0	297,567	11.65%
19 (Weld)	0	0	27,797	0	27,797	1.09%
20 (Boulder)	0	73,135	25,854	0	98,989	3.87%
21 (Mesa)	0	29,783	5,258	0	35,041	1.37%
22 (Dolores, Montezuma)	0	17,762	3,217	0	20,979	0.82%
Subtotal: District Attorneys	16,694	1,949,814	563,692	8,907	2,539,108	99.4%
Department of Law	0	11,678	4,031	0	15,709	0.6%
Total expenditures	\$16,694	\$1,961,492	\$567,723	\$8,907	\$2,554,817	100.0%
<i>Percent of Total</i>	<i>0.7%</i>	<i>76.8%</i>	<i>22.2%</i>	<i>0.3%</i>	<i>100.0%</i>	<i>0.0%</i>

JBC-Sponsored Legislation

There is a long history of disagreement between the defense and the prosecution concerning reimbursements to the prosecution for duplicating discoverable materials, and some of these disputes have required court action to resolve. Since March 2009, the Joint Budget Committee has taken several actions to facilitate resolution of this issue. Most recently, the Committee has sponsored two bills, described below.

Senate Bill 13-246

This act created a Discovery Task Force to study several topics related to discovery costs in criminal cases and report back to the Joint Budget Committee and the Judiciary Committees in January 2014. Rather than recommending clarifications to Rule 16, the Task Force recommended that the General Assembly fund the creation of a statewide system that will enable the sharing and transfer of information between law enforcement agencies and district attorneys' offices in a

format that will then allow the district attorneys to provide discoverable materials in an electronic format to the defense. Once the new system is fully implemented, district attorneys will no longer seek or receive reimbursement for the cost of duplicating discoverable materials, and the existing General Fund appropriations that are used for that purpose will be redirected to support the ongoing maintenance of the statewide discovery sharing system.

Senate Bill 14-190

This act implemented the recommendations of the Discovery Task Force. Specifically, the act requires the Colorado District Attorneys' Council (CDAC) to develop and maintain a statewide discovery sharing system integrated with its ACTION case management system. *[Staff has provided background information about the ACTION system at the end of this issue brief.]* The act requires the General Assembly to appropriate necessary moneys from the General Fund and a newly created cash fund to the Judicial Department to fund the development, continuing enhancement, and maintenance of the new discovery system as well as the maintenance and continuing enhancement of the existing ACTION system. The newly created cash fund consists of revenues from a new criminal surcharge for persons who are represented by private counsel or appear without legal representation.

The act turned the Discovery Task Force into a Steering Committee¹⁷ to assist the CDAC in developing a process to select a vendor. The act required the CDAC to select and enter into a contract with a vendor to complete the discovery system by October 31, 2016. The act required the Steering Committee to develop benchmarks and contractual requirements for the discovery system, and authorized the Committee to meet as necessary to provide practical and technical support for the maintenance and enhancement of the discovery system.

The act appropriated \$5.3 million General Fund to the Judicial Department for FY 2014-15, and allowed any unspent funds to remain available for expenditure in FY 2015-16. This appropriation was based on the higher of two estimates that were included in the Task Force final report. The actual development and implementation costs were to be determined through the request for proposal (RFP) and vendor selection process and the benchmarks and contractual requirements outlined in the act.

The act included a legislative declaration stating the General Assembly's intent that once the statewide system is operational:

- district attorneys shall not seek or receive reimbursement for copying discovery from anyone [please note that this will require a change to CRCP rule #16, part IV, (c).]; and
- existing General Fund appropriations to the Judicial Department that are used to reimburse district attorneys for the cost of duplicating discoverable materials shall instead be used to fund the ongoing costs of maintaining the discovery system and the associated ACTION system.

In addition, the act established a statewide discovery sharing system surcharge to provide some support for the ongoing costs of the system.

¹⁷ Both the Discovery Task Force and the Steering Committee have been chaired by the Deputy Attorney General at the Department of Law; the State Court Administrator has served as Vice-Chair for both groups.

Procurement Delay

Pursuant to S.B. 14-190, the Steering Committee was charged with recommending a vendor to the CDAC for the discovery sharing system by November 1, 2014. Throughout the summer of 2014, the Steering Committee and the CDAC met to draft a request for proposals (RFP); the RFP was posted August 4, 2014, with an August 29, 2014 deadline to submit bids. Through the process it became apparent that the RFP was deficient because it contained ambiguous or inadequate specifications and did not provide consideration for all significant factors. Based on these issues the RFP was cancelled on September 18, 2014.

The cancellation included a request for information (RFI) in an effort to improve the process. The RFI included the opportunity to meet with the Steering Committee on October 16, 2014. On that date, several vendors took the opportunity to meet with the Steering Committee to discuss the cancelled RFP. On October 27, 2014, the RFI period closed and the Steering Committee received several written submissions.

At this time last year (October 31, 2014), the Chair and Vice Chair of the Steering Committee sent a letter to JBC Staff indicating that Discovery Steering Committee was reviewing the feedback from the RFI and expected to make a vendor recommendation to the CDAC by the end of the year. At that time they indicated that it did not appear that the procurement delay would affect the ability to meet all other deadlines contained in S.B. 14-190.

Project Plan and Status

The discovery sharing system project has been divided into three parts:

1. The first part obtains discovery and data electronically from law enforcement agencies and passes this on to the ACTION system.
2. The second part involves enhancements to ACTION that allow the district attorneys to work with electronic discovery in an efficient manner.
3. The third part disseminates the electronic discovery to the defense.

The CDAC has contracted with a vendor to build the first part of the project, and CDAC is building the second and third parts.

The CDAC contracted with PARC (Palo Alto Research Center), which is a wholly owned subsidiary of Xerox. PARC is supplying the project management portion of the project as well as criminal justice expertise, while Xerox is supplying the software system that will gather the discovery from law enforcement agencies for the ACTION case management system. The contract is for an amount not to exceed \$3.0 million. The project has been divided into task orders for manageability and for payment. Each task order has a corresponding milestone that allows CDAC to ensure the task order is on track. As each task order is delivered, CDAC verifies that it works as planned and then signs off on the task order, allowing Xerox/PARC to then invoice for that task order.

CDAC's role in the development of the system consists of the following:

- Overseeing Xerox/PARC to ensure that the portion of the system connecting law enforcement agencies to district attorney offices is completed correctly.

- Working with the district attorneys, law enforcement agencies, *and the defense*¹⁸ to ensure they are kept informed of the progress of the project and to answer questions and concerns.
- Working with Xerox to design and develop the interface that will allow the electronic discovery materials to move from the "core" system to ACTION.
- Developing enhancements to ACTION to make the processing of discovery more efficient for district attorney offices.
- Developing the system/website that will deliver discovery to the defense.
- Ongoing support, maintenance, and enhancement of the ACTION system.

The CDAC prepared a two-page document that provides the project task orders, deliverables, and milestones for Xerox/PARC. The CDAC indicates that the Xerox/PARC deliverables are adjustable based on mutual agreement of CDAC and Xerox if it is found to be in the best interest of the project's success. The CDAC also provided a list of major ACTION system enhancement tasks to be completed for the discovery sharing system, as well as recently completed tasks related to the Judicial Department's criminal e-filing project and other projects. *[Staff has included both of these documents in Appendix J.]*

Senate Bill 14-190 requires CDAC to provide periodic reports to the Steering Committee and the Joint Budget Committee regarding benchmarks and contractual requirements for the statewide discovery sharing system and the progress of the development of the system. The act also requires CDAC to provide the Judicial Department financial reports regarding the system, including:

- actual expenditures of moneys appropriated for the discovery sharing system and the ACTION system so that such data can be included in the Department's annual budget request; and
- the amount of funding requested for the next fiscal year for such purpose, including a breakdown and justification for the amount requested.

Table 3 summarizes the moneys received and spent by the CDAC to date based on the quarterly financial reports it has submitted to the Judicial Department. The Judicial Department has paid \$3.0 million to the CDAC to date, and CDAC expended \$1,425,452 of that amount through September 30, 2015. All of the expenditures for that time period have been for the ACTION system.

¹⁸ The CDAC provided JBC staff with descriptions of the vendor and CDAC roles in the project, but the italicized language in this sentence was added by JBC staff. Staff has continued to reiterate to the CDAC that it is important that they also communicate regularly with the defense (including the OSPD, the OADC, and the private defense bar) so that those entities can participate in the development process and plan for the system implementation.

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TABLE 3: Payments and Expenditures for ACTION and Statewide Discovery Sharing Systems				
	Payments from Judicial Department to CDAC	CDAC Expenditures		
		FY 2014-15	FY 2015-16 (through 9/30/15)	Total
ACTION				
Personnel		\$885,706	\$251,683	\$1,137,389
Supplies & Operating		88,239	24,965	113,205
Travel/Meetings		6,619	907	7,526
Equipment		143,544	23,789	167,333
Other Costs		0	0	0
Subtotal	2,000,000	1,124,108	301,344	1,425,452
eDiscovery Consultants & Other Professional Services	1,000,000	0	0	0
TOTAL	\$3,000,000	\$1,124,108	\$301,344	\$1,425,452

Changes to Project Timeline and Appropriations

As indicated above, the \$5.3 million General Fund in S.B. 14-190 was based on the higher of two estimates that were included in the Task Force final report. However, the fiscal note and JBC bill summary that accompanied the bill indicated that actual development and implementation costs would be determined through the request for proposal and vendor selection process and the benchmarks and contractual requirements outlined in the act. Now that the procurement process is complete, the vendor contract has been signed, and work has begun on the discovery sharing system, the implementation timeframe and project costs are clearer.

The CDAC is now planning for full statewide implementation of the discovery sharing system by June 1, 2017. Thus, the CDAC is seeking a statutory change to delay the required system completion date by seven months (from October 31, 2016, to May 31, 2017). The CDAC has also provided updated project cost data, detailed in Table 4.

Staff has also estimated the General Fund appropriations that will be required for FY 2016-17 and FY 2017-18 based on the CDAC's updated cost projections and staff's estimated revenues available in the Statewide Discovery Sharing Surcharge Fund (see Table 5). Staff estimates that an appropriation of \$1.7 million will be required for FY 2016-17, and an annual appropriation of \$498,000 will be required beginning in FY 2017-18.

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TABLE 4: Actual and Projected Expenditures for ACTION and Statewide Discovery Sharing Systems					
	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	Total
ACTION					
Personnel	\$885,706	\$1,326,000	\$1,780,000	\$1,780,000	\$5,771,706
Supplies & Operating	88,239	129,000	170,000	170,000	557,239
Travel/Meetings	6,619	25,000	20,000	20,000	71,619
Equipment	143,544	262,000	330,000	330,000	1,065,544
Other Costs	0	0	0	0	0
Subtotal	1,124,108	1,742,000	2,300,000	2,300,000	7,466,108
eDiscovery Consultants & Other Professional Services 1/	0	2,000,000	1,000,000	750,000	3,750,000
Total Expenditures	\$1,124,108	\$3,742,000	\$3,300,000	\$3,050,000	\$11,216,108

1/ FY 2017-18 figure reflects the maximum annual maintenance cost of the Xerox portion of the system; actual costs may be lower.

TABLE 5: Estimated General Fund Appropriations Required for ACTION and Statewide Discovery Sharing Systems					
	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	Total
Funds available from prior year	\$0	\$1,875,892	\$433,892	\$0	
S.B. 14-190 appropriation	3,000,000	2,300,000			5,300,000
Less: CDAC actual and projected expenditures	(1,124,108)	(3,742,000)	(3,300,000)	(3,050,000)	(11,216,108)
Statewide Discovery Sharing Surcharge Fund			127,000	52,000	179,000
Projected shift of existing appropriations for payments to DAs and Department of Law			1,000,000	2,500,000	3,500,000
General Fund appropriations required			<u>1,739,108</u>	<u>498,000</u>	<u>2,237,108</u>
Funds available for future years	1,875,892	433,892	0	0	

- For FY 2014-15 and FY 2015-16, actual expenditures are anticipated to fall \$433,892 short of the \$5.3 million appropriated in S.B. 14-190. Table 5 assumes the full \$5.3 million will be paid to CDAC by the end of FY 2015-16, allowing the remainder to cover CDAC expenses in FY 2016-17.
- The surcharge created by S.B. 14-190 applied to offenses committed on or after September 1, 2014. The Judicial Department reports revenues of \$22,765 for the Statewide Discovery Sharing Surcharge Fund in FY 2014-15. Table 5 assumes that the full amount of revenues collected from FY 2014-15 through FY 2016-17 will be appropriated in FY 2016-17 (an estimated \$127,000), and subsequent annual appropriations will be based on annual revenues to the Fund (an estimated \$52,000).
- In FY 2016-17, CDAC anticipates that an estimated \$1.0 million can be repurposed from other existing appropriations that are currently being used to reimburse district attorney costs. This includes estimated amounts that can be made available over the first 11 months of the fiscal year as the system is implemented in each district, plus one month of statewide operations. Given that five of the 22 judicial district attorney offices (shaded in Table 2) account for two-thirds of the state expenditures for discovery-related reimbursements, it is

important that the CDAC include most of these districts early in the implementation schedule. Fortunately, the CDAC is piloting and testing the system in the 18th judicial district. This district includes a number of differently-sized law enforcement agencies, and it currently accounts for more than 11 percent of state expenditures for discovery. In FY 2017-18, the full \$2.5 million can be repurposed to support the new system.

Background Information

ACTION Case Management System

The ACTION case management system is maintained and operated by the CDAC for district attorneys. The system can be accessed by its users from any internet connection. In addition to tracking criminal case data, ACTION provides the following functionality for district attorneys:

- Document generation (filing documents, victim notifications/letters, subpoenas)
- Automatically updated court events along with prosecutor docket tracking
- Full content management system (documents and electronic files associated with each case)
- Built-in, flexible work flow
- Paper-on-demand/paperless office system
- Electronic subpoenas to law enforcement agencies
- Electronic citations from the Weld County Sheriff and Greeley Police Department

This system is one of several that are integrated with the Colorado Integrated Criminal Justice Information System (CICJIS) to share data concerning offenders among various agencies including: law enforcement agencies; district attorneys; the courts; the Department of Public Safety's Colorado Bureau of Investigation; the Department of Corrections; and the Department of Human Services' Division of Youth Corrections. This system is also critical for the Judicial Department's development and implementation of electronic case filing for criminal court cases.

It is staff's understanding that there are three judicial districts that do not currently use ACTION: 1st (Jefferson and Gilpin); 2nd (Denver); and 20th (Boulder).

Informational Issue: Appropriation Transfer Authority

This issue brief describes the authority of Judicial Branch to transfer appropriations among line items, and provides a recent history of such transfers.

SUMMARY:

- The Chief Justice of the Supreme Court is statutorily authorized to approve up to \$1.0 million in annual transfers among line item appropriations to the Judicial Branch.
- In addition, the General Assembly allows the independent agencies within the Judicial Branch to transfer a limited amount of funds among their own line item appropriations (*e.g.*, up to a total of \$3.6 million for FY 2015-16).
- The Judicial Department and the independent agencies annually report any such transfers, and this information is shared with the Joint Budget Committee through the annual staff budget briefing document.
- This transfer authority provides the Branch with appropriate flexibility to close out the fiscal year and cover unanticipated expenditures within existing appropriations without the need to request legislative action by the General Assembly.

DISCUSSION:

Statutory Transfer Authority

Article 75 of Title 24, C.R.S., includes a number of provisions that authorize state agencies to transfer appropriations among line items under certain circumstances, including:

- Transfers required to distribute centralized appropriations (*e.g.*, funding for salary increases that is transferred to each affected Personal Services line item);
- Transfers between the Department of Health Care Policy and Financing and the Department of Human Services based on the amount of Medicaid cash funds earned through various programs and services;
- Transfers between departments that are approved by the Governor; and
- Transfers between line item appropriations to the Judicial Branch that are approved by the Chief Justice of the Supreme Court.

Annual transfers authorized by the Governor may not exceed \$5.0 million.¹⁹ Pursuant to Section 24-75-110, C.R.S., the total amount of moneys transferred between line items of appropriation and any over expenditures authorized by the Chief Justice is limited to \$1.0 million. All of the above provisions are scheduled to be repealed September 1, 2020.

¹⁹ Please note that Section 24-75-108 (8), C.R.S., excludes from this \$5.0 million cap transfers within a department's operating expense and utilities line items.

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Transfer Authority Granted Through Long Bill Footnotes

In addition to the statutory transfer authority described above, the General Assembly may include footnotes in the annual Long Bill to provide further authority to a department to transfer moneys among two or more line items. For example, footnote #2 (in the FY 2015-16 Long Bill) authorizes the Department of Corrections to transfer up to 5.0 percent of the appropriations for the external capacity subprogram among the line items in that section in order to reimburse local providers, and footnote #27 allows the Department of Human Services to transfer funds among most line item appropriations for the Division of Child Welfare to encourage counties to serve children in the most appropriate and least restrictive manner.

The Long Bill includes similar footnotes for the independent agencies within the Judicial Branch. The following table summarizes the transfer authority provided through such footnotes for FY 2015-16. As indicated, for FY 2015-16, the transfer authority granted to five independent agencies totals \$3.6 million.

Transfer Authority Granted Through Long Bill Footnotes			
Judicial Agency	Long Bill Footnote	Percent of Total Appropriation That May Be Transferred	Dollar Limit on Transfers for FY 2015-16
Office of the State Public Defender	48	2.5	\$2,170,706
Office of the Alternate Defense Counsel	49	2.5	751,575
Office of the Child's Representative	50	2.5	638,574
Office of the Respondent Parents' Counsel	52	2.5	23,950
Independent Ethics Commission	53	10.0	34,771
Total Additional Transfer Authority			\$3,619,575

Actual Transfers

The Judicial Department reports statutorily authorized transfers and over expenditures as part of its annual budget request. The following table summarizes statutorily authorized transfers and over expenditures since FY 1998-99.

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Recent History of Judicial Statutorily Authorized Transfers and Over Expenditures			
Fiscal Year	Transfers	Over Expenditures	Total
1998-99	\$1,000,000		\$1,000,000
1999-00	789,624		789,624
2000-01	196,605		196,605
2001-02	1,000,000		1,000,000
2002-03	258,432		258,432
2003-04	152,052		152,052
2004-05	642,856		642,856
2005-06	727,022		727,022
2006-07	554,051		554,051
2007-08	877,235	118,687	995,922
2008-09	375,660		375,660
2009-10	1,000,000		1,000,000
2010-11	383,767		383,767
2011-12	281,930		281,930
2012-13	790,963		790,963
2013-14	994,585		994,585
2014-15	979,321		979,321

The transfers summarized in the above table include a variety of transfers among line item appropriations to the Judicial Department (*e.g.*, from the Trial Court Programs line item to the Information Technology Infrastructure line item), as well as transfers among the Department and the independent agencies. Generally, the most significant transfers in the above table were made to cover costs of paying private attorneys who are appointed by the court to provide legal representation. For example, in two of the last eight fiscal years, the OADC transferred unspent funds to the OCR to cover OCR's court-appointed counsel costs (\$449,385 in FY 2009-10 and \$500,000 in FY 2013-14); and in two other fiscal years the OADC received transfers of funds from the OSPD and from the OCR to cover its own conflict of interest contract payments and mandated costs (\$100,000 in FY 2012-13 and \$640,000 in FY 2014-15).

In addition to the transfers described above, each agency reports annual transfers of appropriations as authorized by Long Bill footnote as part of its annual budget request. This information is included in the annual JBC staff budget briefing document, including tables detailing transfers made by each agency by line item [*see Appendix C of this document*]. The following table summarizes the annual internal transfers made by these agencies pursuant to Long Bill footnote authority since FY 2007-08, reflecting the amount transferred as a dollar amount and as a percent of the agency's total appropriation.

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Recent History of Transfers Made Pursuant to Long Bill Footnote Authority								
Agency	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY 11-12	FY 12-13	FY 13-14	FY 14-15
OSPD								
\$	\$1,005,547	\$540,427	\$414,029	\$1,417,587	\$675,000	\$0	\$800,000	\$725,000
%	2.2%	1.1%	0.8%	2.5%	1.1%	0.0%	1.1%	0.9%
OADC								
\$	\$55,135	\$87,726	\$0	\$2,814	\$7,875	\$230,310	\$144,838	\$394,877
%	0.3%	0.4%	0.0%	0.0%	0.0%	1.0%	0.6%	1.3%
OCR								
\$	\$73,383	\$82,160	\$30,042	\$69,920	\$56,645	\$41,869	\$56,684	\$67,000
%	0.5%	0.4%	0.2%	0.4%	0.3%	0.2%	0.3%	0.3%
ORPC								
\$	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
%								
IEC								
\$	n/a	n/a	n/a	\$4,644	\$0	\$0	\$31,575	\$0
%				1.6%	0.0%	0.0%	10.0%	0.0%
Total	\$1,134,065	\$710,313	\$444,071	\$1,494,965	\$739,520	\$272,179	\$1,033,097	\$1,186,877

Both the statutory and Long Bill footnote authority to transfer a limited amount of funds among line items provide flexibility for the Branch to cover unanticipated expenditures and close out the fiscal year without the need to request legislative action by the General Assembly. The Branch annually reports all such transfers, and this information is annually shared with the Joint Budget Committee through staff documents. The General Assembly evaluates this transfer authority through periodic reauthorization of the statutory provisions and annual consideration of Long Bill footnotes.

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Appendix A: Number Pages

	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	Request vs. Appropriation
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JUDICIAL DEPARTMENT
Nancy Rice, Chief Justice

(1) SUPREME COURT/COURT OF APPEALS

This section provides funding for the Colorado Supreme Court and the Colorado Court of Appeals. The primary functions of the Supreme Court include: general supervisory control of lower courts; appellate review of lower court judgements; original jurisdiction for certain constitutional and other cases; rule-making for the state court system; and overseeing the regulation of attorneys and the practice of law. The Court of Appeals is generally the first court to hear appeals of judgments and orders in criminal, juvenile, civil, domestic relations, and probate matters. The Court of Appeals also has initial jurisdiction to review actions and decisions of several state agencies, boards, and commissions. Cash fund sources primarily include annual attorney registration fees, law examination application fees, appellate court filing fees, and various docket fees that are credited to the Judicial Stabilization Cash Fund. Reappropriated funds are transferred from the Department of Law.

Appellate Court Programs	<u>11,580,999</u>	<u>12,529,949</u>	<u>13,377,395</u>	<u>14,243,683</u>
FTE	140.0	142.7	142.8	143.0
General Fund	10,248,847	12,459,286	13,305,395	14,171,683
Cash Funds	1,332,152	70,663	72,000	72,000
Office of Attorney Regulation Counsel	<u>0</u>	<u>10,232,231</u>	<u>10,650,000</u>	<u>10,650,000</u>
FTE	0.0	67.0	69.0	69.0
Cash Funds	0	10,232,231	10,650,000	10,650,000
Attorney Regulation	<u>8,646,975</u>	<u>0</u>	<u>0</u>	<u>0</u>
FTE	56.0	0.0	0.0	0.0
Cash Funds	8,646,975	0	0	0
Continuing Legal Education	<u>1,059,947</u>	<u>0</u>	<u>0</u>	<u>0</u>
FTE	4.0	0.0	0.0	0.0
Cash Funds	1,059,947	0	0	0

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	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	Request vs. Appropriation
State Board of Law Examiners	<u>3,117,917</u>	<u>0</u>	<u>0</u>	<u>0</u>	
FTE	7.0	0.0	0.0	0.0	
Cash Funds	3,117,917	0	0	0	
Law Library	<u>528,735</u>	<u>652,254</u>	<u>563,121</u>	<u>563,121</u>	
FTE	3.5	3.5	3.5	3.5	
Cash Funds	466,284	589,133	500,000	500,000	
Reappropriated Funds	62,451	63,121	63,121	63,121	
Indirect Cost Assessment	<u>0</u>	<u>177,001</u>	<u>221,332</u>	<u>296,691</u>	
Cash Funds	0	177,001	221,332	296,691	
TOTAL - (1) Supreme Court/Court of Appeals	24,934,573	23,591,435	24,811,848	25,753,495	3.8%
FTE	<u>210.5</u>	<u>213.2</u>	<u>215.3</u>	<u>215.5</u>	<u>0.1%</u>
General Fund	10,248,847	12,459,286	13,305,395	14,171,683	6.5%
Cash Funds	14,623,275	11,069,028	11,443,332	11,518,691	0.7%
Reappropriated Funds	62,451	63,121	63,121	63,121	0.0%

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	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	Request vs. Appropriation
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(2) COURTS ADMINISTRATION

The Justices of the Supreme Court appoint a State Court Administrator to oversee administrative functions of the Branch. The State Court Administrator and his staff provide leadership and technical and administrative support for judicial district staff. This section includes funding for: the State Court Administrator and his staff; information technology staff and infrastructure for courts and probation programs; employee benefits for all court and probation staff; multiple programs that are administrated centrally rather than at the judicial district level; and operations of the Ralph L. Carr Colorado Judicial Center.

(A) Administration and Technology

This subsection includes funding and staff associated with central administration of the State's judicial system, including budgeting, research, information technology systems and support, training, and technical assistance. Cash fund sources include the Judicial Department Information Technology Cash Fund, the Judicial Stabilization Cash Fund, and various fees and cost recoveries. Reappropriated funds include statewide and departmental indirect recoveries and funds transferred from other state agencies.

General Courts Administration	<u>19,965,915</u>	<u>22,270,391</u>	<u>24,459,103</u>	<u>25,668,820</u> *
FTE	191.9	206.8	234.9	239.8
General Fund	12,277,636	14,616,260	16,520,860	17,785,147
Cash Funds	5,783,300	5,591,151	5,747,813	5,747,813
Reappropriated Funds	1,904,979	2,062,980	2,190,430	2,135,860
Information Technology Infrastructure	<u>4,637,670</u>	<u>5,331,833</u>	<u>8,631,321</u>	<u>15,879,211</u> *
General Fund	403,094	403,094	403,094	403,094
Cash Funds	4,234,576	4,928,739	8,228,227	15,476,117
Indirect Cost Assessment	<u>581,957</u>	<u>640,139</u>	<u>682,402</u>	<u>756,455</u>
Cash Funds	581,957	640,139	673,399	747,363
Reappropriated Funds	0	0	9,003	9,092
Statewide Indirect Cost Assessment	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Cash Funds	0	0	0	0
Federal Funds	0	0	0	0

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Departmental Indirect Cost Assessment	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	
Cash Funds	0	0	0	0	
SUBTOTAL - (A) Administration and Technology	25,185,542	28,242,363	33,772,826	42,304,486	25.3%
<i>FTE</i>	<u>191.9</u>	<u>206.8</u>	<u>234.9</u>	<u>239.8</u>	<u>2.1%</u>
General Fund	12,680,730	15,019,354	16,923,954	18,188,241	7.5%
Cash Funds	10,599,833	11,160,029	14,649,439	21,971,293	50.0%
Reappropriated Funds	1,904,979	2,062,980	2,199,433	2,144,952	(2.5%)
Federal Funds	0	0	0	0	0.0%

(B) Central Appropriations

This subsection includes centrally appropriated line items. While most of these line items cover expenses for the entire Judicial Branch, the following line items exclude funding associated with the six independent agencies: salary-related line items; appropriations for health, life, and dental, and short-term disability insurance; and vehicle lease payments. Cash fund sources include: the Judicial Stabilization Cash Fund, the State Commission on Judicial Performance Cash Fund, the Offender Services Fund, the Judicial Department Information Technology Cash Fund, the Fines Collection Cash Fund, the Correctional Treatment Cash Fund, and the Alcohol and Drug Driving Safety Program Fund.

Health, Life, and Dental	<u>24,360,420</u>	<u>24,238,342</u>	<u>29,574,072</u>	<u>30,021,010</u>
General Fund	22,860,367	22,579,160	26,723,070	27,738,068
Cash Funds	1,500,053	1,659,182	2,851,002	2,282,942
Short-term Disability	<u>296,287</u>	<u>383,709</u>	<u>384,414</u>	<u>343,709</u>
General Fund	247,005	369,464	347,073	316,306
Cash Funds	49,282	14,245	37,341	27,403
S.B. 04-257 Amortization Equalization Disbursement	<u>6,394,913</u>	<u>7,869,827</u>	<u>8,928,410</u>	<u>9,983,874</u>
General Fund	5,397,337	7,677,392	8,168,699	9,286,257
Cash Funds	997,576	192,435	759,711	697,617

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S.B. 06-235 Supplemental Amortization Equalization					
Disbursement	<u>5,574,610</u>	<u>7,145,068</u>	<u>8,271,723</u>	<u>9,480,090</u>	
General Fund	4,689,972	6,958,118	7,542,763	8,791,315	
Cash Funds	884,638	186,950	728,960	688,775	
Salary Survey	<u>5,284,336</u>	<u>12,003,152</u>	<u>8,711,251</u>	<u>4,821,932</u>	
General Fund	4,676,224	11,786,542	8,395,379	4,514,724	
Cash Funds	608,112	216,610	315,872	307,208	
Reappropriated Funds	0	0	0	0	
Merit Pay	<u>3,370,314</u>	<u>1,907,291</u>	<u>2,556,586</u>	<u>0</u>	
General Fund	2,788,409	1,841,214	2,360,879	0	
Cash Funds	581,905	66,077	195,707	0	
Workers' Compensation	<u>1,337,492</u>	<u>1,210,253</u>	<u>1,126,921</u>	<u>1,466,752</u>	
General Fund	1,337,492	1,210,253	1,126,921	1,466,752	
Legal Services	<u>134,260</u>	<u>171,825</u>	<u>190,020</u>	<u>190,020</u>	
General Fund	134,260	171,825	190,020	190,020	
Payment to Risk Management and Property Funds	<u>607,112</u>	<u>685,664</u>	<u>729,019</u>	<u>926,755</u>	
General Fund	607,112	685,664	729,019	926,755	
Vehicle Lease Payments	<u>76,374</u>	<u>75,258</u>	<u>93,207</u>	<u>149,622</u>	*
General Fund	76,374	75,258	93,207	149,622	
Ralph L. Carr Colorado Judicial Center Leased Space	<u>2,063,194</u>	<u>2,384,393</u>	<u>2,491,754</u>	<u>2,536,816</u>	
General Fund	2,063,194	2,384,393	2,491,754	2,536,816	
Cash Funds	0	0	0	0	

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Payments to OIT	<u>0</u>	<u>2,622,667</u>	<u>4,031,075</u>	<u>2,464,769</u>	
General Fund	0	2,622,667	4,031,075	2,464,769	
CORE Operations	<u>1,056,857</u>	<u>2,101,598</u>	<u>1,619,424</u>	<u>874,207</u>	
General Fund	1,056,857	2,101,598	1,619,424	874,207	
Lease Purchase	<u>119,878</u>	<u>119,878</u>	<u>119,878</u>	<u>0</u> *	
General Fund	119,878	119,878	119,878	0	
Cash Funds	0	0	0	0	
Purchase of Services from Computer Center	<u>699,378</u>	<u>0</u>	<u>0</u>	<u>0</u>	
General Fund	699,378	0	0	0	
Colorado State Network	<u>1,666,209</u>	<u>0</u>	<u>0</u>	<u>0</u>	
General Fund	1,666,209	0	0	0	
Communication Services Payments	<u>18,113</u>	<u>0</u>	<u>0</u>	<u>0</u>	
General Fund	18,113	0	0	0	
Information Technology Security	<u>24,047</u>	<u>0</u>	<u>0</u>	<u>0</u>	
General Fund	24,047	0	0	0	
SUBTOTAL - (B) Central Appropriations	53,083,794	62,918,925	68,827,754	63,259,556	(8.1%)
FTE	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0%</u>
General Fund	48,462,228	60,583,426	63,939,161	59,255,611	(7.3%)
Cash Funds	4,621,566	2,335,499	4,888,593	4,003,945	(18.1%)
Reappropriated Funds	0	0	0	0	0.0%

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(C) Centrally Administered Programs

This subsection includes funding and staff associated with specific functions, grant programs, and distributions that are administered by the Office of the State Court Administrator. Cash fund sources include: the Victims and Witnesses and Law Enforcement Fund; the Crime Victim Compensation Fund; the Judicial Collections Enhancement Fund; the Fines Collection Cash Fund; the Judicial Stabilization Cash Fund; the Court Security Cash Fund; the State Commission on Judicial Performance Cash Fund; the Family Violence Justice Fund; the Family-friendly Court Program Cash Fund; and various fees, cost recoveries, and grants. Reappropriated funds include Victims and Witnesses Assistance and Law Enforcement funds transferred from the Trial Courts section, and federal funds transferred from the Department of Human Services.

Victim Assistance	<u>16,075,801</u>	<u>15,592,516</u>	<u>16,375,000</u>	<u>16,375,000</u>	
Cash Funds	16,075,801	15,592,516	16,375,000	16,375,000	
Victim Compensation	<u>13,315,657</u>	<u>13,252,814</u>	<u>13,400,000</u>	<u>13,400,000</u>	
Cash Funds	13,315,657	13,252,814	13,400,000	13,400,000	
Collections Investigators	<u>4,984,001</u>	<u>6,225,420</u>	<u>6,670,821</u>	<u>6,757,202</u>	
FTE	80.1	95.9	104.2	104.2	
Cash Funds	4,259,771	5,599,143	5,773,280	5,859,661	
Reappropriated Funds	724,230	626,277	897,541	897,541	
Problem-solving Courts	<u>3,097,316</u>	<u>3,112,859</u>	<u>3,509,361</u>	<u>3,603,032</u>	
FTE	37.9	32.5	44.3	44.3	
General Fund	(3,900)	0	375,376	398,446	
Cash Funds	3,101,216	3,112,859	3,133,985	3,204,586	
Federal Funds	0	0	0	0	
Language Interpreters and Translators	<u>3,639,982</u>	<u>3,894,614</u>	<u>4,137,999</u>	<u>4,211,315</u>	
FTE	24.9	25.5	32.9	33.0	
General Fund	3,376,232	3,863,738	4,087,999	4,161,315	
Cash Funds	263,750	30,876	50,000	50,000	

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Courthouse Security	<u>2,606,889</u>	<u>2,071,661</u>	<u>2,471,940</u>	<u>2,698,499</u>	*
FTE	1.0	1.0	1.0	1.0	
General Fund	0	0	500,000	724,400	
Cash Funds	2,606,889	2,071,661	1,971,940	1,974,099	
Appropriation to Underfunded Courthouse Facility Cash Fund	<u>0</u>	<u>700,000</u>	<u>2,000,000</u>	<u>2,000,000</u>	
General Fund	0	700,000	2,000,000	2,000,000	
Underfunded Courthouse Facilities Grant Program	<u>0</u>	<u>50,604</u>	<u>2,000,000</u>	<u>2,000,000</u>	
FTE	0.0	1.0	1.0	1.0	
Reappropriated Funds	0	50,604	2,000,000	2,000,000	
Courthouse Capital/ Infrastructure Maintenance	<u>3,590,121</u>	<u>2,218,813</u>	<u>4,960,657</u>	<u>2,851,569</u>	*
General Fund	172,550	2,194,601	2,909,613	1,026,838	
Cash Funds	3,417,571	24,212	2,051,044	1,824,731	
Senior Judge Program	<u>1,256,444</u>	<u>1,317,418</u>	<u>1,504,384</u>	<u>1,640,750</u>	
General Fund	0	17,418	204,384	340,750	
Cash Funds	1,256,444	1,300,000	1,300,000	1,300,000	
Judicial Education and Training	<u>1,462,036</u>	<u>1,435,223</u>	<u>1,453,718</u>	<u>1,456,806</u>	
FTE	1.8	2.0	2.0	2.0	
General Fund	0	0	4,812	4,812	
Cash Funds	1,462,036	1,435,223	1,448,906	1,451,994	

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Office of Judicial Performance Evaluation	<u>673,973</u>	<u>617,248</u>	<u>784,084</u>	<u>771,641</u>	
FTE	2.0	1.8	2.0	2.0	
General Fund	0	290,000	290,000	290,000	
Cash Funds	673,973	327,248	494,084	481,641	
Family Violence Justice Grants	<u>1,148,230</u>	<u>2,150,063</u>	<u>2,670,000</u>	<u>2,670,000</u>	
General Fund	1,000,000	2,000,000	2,500,000	2,500,000	
Cash Funds	148,230	150,063	170,000	170,000	
Restorative Justice Programs	<u>191,666</u>	<u>529,261</u>	<u>872,249</u>	<u>875,633</u>	
FTE	0.0	0.0	1.0	1.0	
Cash Funds	191,666	529,261	872,249	875,633	
District Attorney Adult Pretrial Diversion Programs	<u>29,561</u>	<u>122,906</u>	<u>477,000</u>	<u>477,000</u>	
General Fund	29,561	122,906	400,000	400,000	
Cash Funds	0	0	77,000	77,000	
Family-friendly Court Program	<u>150,510</u>	<u>247,732</u>	<u>225,943</u>	<u>225,943</u>	
FTE	0.5	0.5	0.5	0.5	
General Fund	0	0	0	0	
Cash Funds	150,510	247,732	225,943	225,943	
Compensation for Exonerated Persons	<u>107,800</u>	<u>102,771</u>	<u>105,751</u>	<u>107,020</u>	*
General Fund	107,800	102,771	105,751	107,020	
Child Support Enforcement	<u>83,183</u>	<u>85,405</u>	<u>90,900</u>	<u>90,900</u>	
FTE	1.0	1.0	1.0	1.0	
General Fund	28,458	28,564	30,904	30,904	
Reappropriated Funds	54,725	56,841	59,996	59,996	

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	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	Request vs. Appropriation
SUBTOTAL - (C) Centrally Administered Programs	52,413,170	53,727,328	63,709,807	62,212,310	(2.4%)
<i>FTE</i>	<u>149.2</u>	<u>161.2</u>	<u>189.9</u>	<u>190.0</u>	<u>0.1%</u>
General Fund	4,710,701	9,319,998	13,408,839	11,984,485	(10.6%)
Cash Funds	46,923,514	43,673,608	47,343,431	47,270,288	(0.2%)
Reappropriated Funds	778,955	733,722	2,957,537	2,957,537	0.0%
Federal Funds	0	0	0	0	0.0%

(D) Ralph L. Carr Colorado Judicial Center

This subsection includes appropriations related to the operations of the Ralph L. Carr Colorado Judicial Center. Funding supports: various contractual services (including engineering, custodial, and maintenance services; parking garage operations and maintenance; and copy center operations); the purchase of security services from the Colorado State Patrol; utilities; operational and engineering facility staff; debt service payments (previously included in the Capital Construction section of the budget); and an annual appropriation for facility controlled maintenance needs. Cash funds are from the Justice Center Cash Fund. Reappropriated funds are transferred from Leased Space appropriations to the Judicial Branch and the Department of Law.

Personal Services	<u>1,315,312</u>	<u>1,371,181</u>	<u>1,460,479</u>	<u>1,465,519</u>	
FTE	2.0	2.0	2.0	2.0	
Cash Funds	0	11,283	351,707	356,747	
Reappropriated Funds	1,315,312	1,359,898	1,108,772	1,108,772	
Federal Funds	0	0	0	0	
Operating Expenses	<u>3,703,417</u>	<u>3,728,478</u>	<u>4,026,234</u>	<u>4,026,234</u>	
General Fund	0	0	1,146,362	952,887	
Cash Funds	43,379	0	0	0	
Reappropriated Funds	3,660,038	3,728,478	2,879,872	3,073,347	
Lease Purchase Payments	<u>0</u>	<u>0</u>	<u>21,543,903</u>	<u>21,577,604</u>	*
General Fund	0	0	3,853,638	3,853,638	
Cash Funds	0	0	17,690,265	17,723,966	

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	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	Request vs. Appropriation
Controlled Maintenance	<u>0</u>	<u>454,681</u>	<u>2,025,000</u>	<u>2,025,000</u>	
Cash Funds	0	454,681	487,652	487,652	
Reappropriated Funds	0	0	1,537,348	1,537,348	
SUBTOTAL - (D) Ralph L. Carr Colorado Judicial Center	5,018,729	5,554,340	29,055,616	29,094,357	0.1%
<i>FTE</i>	<u>2.0</u>	<u>2.0</u>	<u>2.0</u>	<u>2.0</u>	<u>0.0%</u>
General Fund	0	0	5,000,000	4,806,525	(3.9%)
Cash Funds	43,379	465,964	18,529,624	18,568,365	0.2%
Reappropriated Funds	4,975,350	5,088,376	5,525,992	5,719,467	3.5%
Federal Funds	0	0	0	0	0.0%
TOTAL - (2) Courts Administration	135,701,235	150,442,956	195,366,003	196,870,709	0.8%
<i>FTE</i>	<u>343.1</u>	<u>370.0</u>	<u>426.8</u>	<u>431.8</u>	<u>1.2%</u>
General Fund	65,853,659	84,922,778	99,271,954	94,234,862	(5.1%)
Cash Funds	62,188,292	57,635,100	85,411,087	91,813,891	7.5%
Reappropriated Funds	7,659,284	7,885,078	10,682,962	10,821,956	1.3%
Federal Funds	0	0	0	0	0.0%

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	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	Request vs. Appropriation
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(3) TRIAL COURTS

This section provides funding for the state trial courts, which consist of district courts in 22 judicial districts, water courts, and county courts. District courts: preside over felony criminal matters, civil claims, juvenile matters, and probate, mental health, and divorce proceedings; handle appeals from municipal and county courts; and review decisions of administrative boards and agencies. Water courts have exclusive jurisdiction over cases involving the determination of water rights and the use and administration of water. County courts: handle civil actions involving no more than \$15,000, misdemeanor cases, civil and criminal traffic infractions, and felony complaints; issue search warrants and protection orders in cases involving domestic violence; and hear municipal court appeals. Cash fund sources include the Judicial Stabilization Cash Fund, various court fees and cost recoveries, and the sale of jury pattern instructions. Reappropriated funds reflect federal funds transferred from the Departments of Public Safety and Human Services.

Trial Court Programs	<u>123,847,168</u>	<u>133,257,426</u>	<u>143,616,952</u>	<u>151,380,646</u>	
FTE	1,741.4	1,781.3	1,860.2	1,859.6	
General Fund	93,109,562	100,553,453	113,504,175	121,184,731	
Cash Funds	29,626,026	31,728,323	28,862,777	28,945,915	
Reappropriated Funds	1,111,580	975,650	1,250,000	1,250,000	
Court Costs, Jury Costs, and Court-appointed Counsel	<u>15,814,487</u>	<u>18,020,657</u>	<u>17,884,919</u>	<u>8,043,012</u>	
General Fund	15,668,309	17,891,865	17,719,670	7,877,763	
Cash Funds	146,178	128,792	165,249	165,249	
District Attorney Mandated Costs	<u>2,312,067</u>	<u>2,535,043</u>	<u>2,817,350</u>	<u>2,590,153</u>	*
General Fund	2,152,067	2,374,178	2,647,350	2,420,153	
Cash Funds	160,000	160,865	170,000	170,000	
Federal Funds and Other Grants	<u>1,730,194</u>	<u>2,414,125</u>	<u>2,900,000</u>	<u>2,900,000</u>	
FTE	13.7	10.3	14.0	14.0	
Cash Funds	126,445	162,783	975,000	975,000	
Reappropriated Funds	0	0	300,000	300,000	
Federal Funds	1,603,749	2,251,342	1,625,000	1,625,000	

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	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	Request vs. Appropriation
Action and Statewide Discovery Sharing Systems	<u>0</u>	<u>3,000,000</u>	<u>0</u>	<u>0</u>	
General Fund	0	3,000,000	0	0	
TOTAL - (3) Trial Courts	143,703,916	159,227,251	167,219,221	164,913,811	(1.4%)
<i>FTE</i>	<u>1,755.1</u>	<u>1,791.6</u>	<u>1,874.2</u>	<u>1,873.6</u>	<u>(0.0%)</u>
General Fund	110,929,938	123,819,496	133,871,195	131,482,647	(1.8%)
Cash Funds	30,058,649	32,180,763	30,173,026	30,256,164	0.3%
Reappropriated Funds	1,111,580	975,650	1,550,000	1,550,000	0.0%
Federal Funds	1,603,749	2,251,342	1,625,000	1,625,000	0.0%

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(4) PROBATION AND RELATED SERVICES

This section provides funding for: the supervision of offenders sentenced to probation; the preparation of presentence investigation reports for the courts; victim notification and assistance; and community outreach programs. This section also provides funding for the purchase of treatment and services for offenders on probation, as well as funding that is transferred to other state agencies to provide treatment for substance use disorder and co-occurring disorders for adult and juvenile offenders. Cash funds are from fees paid by offenders for supervision, treatment, and restitution, as well as various cost recoveries. Reappropriated funds include: spending authority for General Fund moneys that are appropriated to the Correctional Treatment Cash Fund; Victims and Witnesses Assistance and Law Enforcement funds transferred from the Trial Courts section; and funds transferred from other Departments.

Probation Programs	<u>76,075,870</u>	<u>78,159,686</u>	<u>84,373,222</u>	<u>86,464,891</u>	
FTE	1,129.8	1,111.0	1,181.2	1,183.8	
General Fund	65,583,793	68,886,315	73,461,310	75,309,364	
Cash Funds	10,492,077	9,273,371	10,911,912	11,155,527	
Offender Treatment and Services	<u>24,984,444</u>	<u>29,259,857</u>	<u>32,936,237</u>	<u>34,436,237</u>	*
General Fund	667,197	791,272	924,877	924,877	
Cash Funds	12,297,245	13,667,520	14,373,019	15,873,019	
Reappropriated Funds	12,020,002	14,801,065	17,638,341	17,638,341	
Appropriation to the Correctional Treatment Cash Fund	<u>11,700,000</u>	<u>15,200,000</u>	<u>16,750,000</u>	<u>16,750,000</u>	
General Fund	11,700,000	15,200,000	15,200,000	15,200,000	
Cash Funds	0	0	1,550,000	1,550,000	
S.B. 91-94 Juvenile Services	<u>1,933,860</u>	<u>2,002,479</u>	<u>2,496,837</u>	<u>2,496,837</u>	
FTE	25.0	13.1	25.0	25.0	
Reappropriated Funds	1,933,860	2,002,479	2,496,837	2,496,837	
Reimbursements to Law Enforcement Agencies for the Costs of Returning a Probationer	<u>88,049</u>	<u>86,399</u>	<u>187,500</u>	<u>187,500</u>	
Cash Funds	88,049	86,399	187,500	187,500	

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Victims Grants	<u>359,162</u>	<u>351,380</u>	<u>650,000</u>	<u>650,000</u>	
FTE	6.0	3.6	6.0	6.0	
Reappropriated Funds	359,162	351,380	650,000	650,000	
Federal Funds and Other Grants	<u>4,546,976</u>	<u>4,227,633</u>	<u>5,600,000</u>	<u>5,600,000</u>	
FTE	33.0	33.0	33.0	33.0	
Cash Funds	731,174	673,616	1,950,000	1,950,000	
Reappropriated Funds	150,768	216,882	850,000	850,000	
Federal Funds	3,665,034	3,337,135	2,800,000	2,800,000	
Indirect Cost Assessment	<u>1,031,039</u>	<u>1,103,840</u>	<u>1,144,696</u>	<u>940,714</u>	
Cash Funds	1,031,039	1,103,840	1,144,696	940,714	
TOTAL - (4) Probation and Related Services	120,719,400	130,391,274	144,138,492	147,526,179	2.4%
FTE	<u>1,193.8</u>	<u>1,160.7</u>	<u>1,245.2</u>	<u>1,247.8</u>	<u>0.2%</u>
General Fund	77,950,990	84,877,587	89,586,187	91,434,241	2.1%
Cash Funds	24,639,584	24,804,746	30,117,127	31,656,760	5.1%
Reappropriated Funds	14,463,792	17,371,806	21,635,178	21,635,178	0.0%
Federal Funds	3,665,034	3,337,135	2,800,000	2,800,000	0.0%

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(5) OFFICE OF THE STATE PUBLIC DEFENDER

This independent agency provides legal counsel for indigent defendants in criminal and juvenile delinquency cases where there is a possibility of being jailed or imprisoned. Cash funds consist of training fees paid by private attorneys and grants.

Personal Services	<u>43,409,279</u>	<u>55,774,090</u>	<u>59,930,492</u>	<u>61,123,385</u>	
FTE	670.8	745.0	783.3	783.9	
General Fund	43,409,279	55,774,090	59,930,492	61,123,385	
Health, Life, and Dental	<u>4,978,927</u>	<u>5,355,507</u>	<u>6,232,846</u>	<u>6,159,824</u>	
General Fund	4,978,927	5,355,507	6,232,846	6,159,824	
Short-term Disability	<u>89,283</u>	<u>102,281</u>	<u>114,758</u>	<u>99,261</u>	
General Fund	89,283	102,281	114,758	99,261	
S.B. 04-257 Amortization Equalization Disbursement	<u>1,679,974</u>	<u>1,915,191</u>	<u>2,295,153</u>	<u>2,507,649</u>	
General Fund	1,679,974	1,915,191	2,295,153	2,507,649	
S.B. 06-235 Supplemental Amortization Equalization					
Disbursement	<u>1,513,219</u>	<u>1,795,395</u>	<u>2,216,909</u>	<u>2,481,528</u>	
General Fund	1,513,219	1,795,395	2,216,909	2,481,528	
Salary Survey	<u>5,640,158</u>	<u>1,303,106</u>	<u>583,552</u>	<u>0</u>	
General Fund	5,640,158	1,303,106	583,552	0	
Merit Pay	<u>651,614</u>	<u>528,200</u>	<u>576,242</u>	<u>0</u>	
General Fund	651,614	528,200	576,242	0	
Vehicle Lease Payments	<u>105,286</u>	<u>99,127</u>	<u>114,565</u>	<u>114,910</u>	*
General Fund	105,286	99,127	114,565	114,910	

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	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	Request vs. Appropriation
Capital Outlay	<u>419,037</u>	<u>183,514</u>	<u>17,401</u>	<u>0</u>	
General Fund	419,037	183,514	17,401	0	
Operating Expenses	<u>1,553,480</u>	<u>1,705,567</u>	<u>1,744,642</u>	<u>1,745,212</u>	
General Fund	1,534,805	1,691,012	1,714,642	1,715,212	
Cash Funds	18,675	14,555	30,000	30,000	
Leased Space/Utilities	<u>5,618,157</u>	<u>5,598,781</u>	<u>6,456,972</u>	<u>6,456,972</u>	
General Fund	5,618,157	5,598,781	6,456,972	6,456,972	
Automation Plan	<u>1,766,920</u>	<u>1,515,437</u>	<u>1,416,920</u>	<u>1,416,920</u>	
General Fund	1,766,920	1,515,437	1,416,920	1,416,920	
Attorney Registration	<u>126,300</u>	<u>134,260</u>	<u>140,522</u>	<u>140,085</u>	
General Fund	126,300	134,260	140,522	140,085	
Contract Services	<u>0</u>	<u>45,825</u>	<u>49,395</u>	<u>49,395</u>	
General Fund	0	45,825	49,395	49,395	
Mandated Costs	<u>4,777,888</u>	<u>5,177,715</u>	<u>4,817,866</u>	<u>4,817,866</u>	
General Fund	4,777,888	5,177,715	4,817,866	4,817,866	
Grants	<u>35,223</u>	<u>35,928</u>	<u>120,000</u>	<u>120,000</u>	
FTE	0.3	0.3	2.0	2.0	
Cash Funds	35,223	35,928	120,000	120,000	
TOTAL - (5) Office of the State Public Defender	72,364,745	81,269,924	86,828,235	87,233,007	0.5%
FTE	<u>671.1</u>	<u>745.3</u>	<u>785.3</u>	<u>785.9</u>	<u>0.1%</u>
General Fund	72,310,847	81,219,441	86,678,235	87,083,007	0.5%
Cash Funds	53,898	50,483	150,000	150,000	0.0%

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(6) OFFICE OF THE ALTERNATE DEFENSE COUNSEL

This independent agency provides legal representation for indigent defendants in cases where the State Public Defender is precluded from doing so because of an ethical conflict of interest. Cash funds are received from private attorneys and investigators for training.

Personal Services	<u>880,672</u>	<u>916,445</u>	<u>1,093,458</u>	<u>1,286,372</u>	*
FTE	8.4	9.1	10.9	13.0	
General Fund	880,672	916,445	1,093,458	1,286,372	
Health, Life, and Dental	<u>109,710</u>	<u>105,484</u>	<u>134,599</u>	<u>158,680</u>	*
General Fund	109,710	105,484	134,599	158,680	
Short-term Disability	<u>1,341</u>	<u>1,671</u>	<u>2,078</u>	<u>2,164</u>	*
General Fund	1,341	1,671	2,078	2,164	
S.B. 04-257 Amortization Equalization Disbursement	<u>24,222</u>	<u>30,879</u>	<u>41,541</u>	<u>54,661</u>	*
General Fund	24,222	30,879	41,541	54,661	
S.B. 06-235 Supplemental Amortization Equalization					
Disbursement	<u>21,799</u>	<u>28,892</u>	<u>40,126</u>	<u>54,092</u>	*
General Fund	21,799	28,892	40,126	54,092	
Salary Survey	<u>12,817</u>	<u>34,797</u>	<u>61,947</u>	<u>0</u>	
General Fund	12,817	34,797	61,947	0	
Merit Pay	<u>10,408</u>	<u>835</u>	<u>6,761</u>	<u>0</u>	
General Fund	10,408	835	6,761	0	
Operating Expenses	<u>96,917</u>	<u>71,691</u>	<u>75,405</u>	<u>79,765</u>	*
General Fund	96,917	71,691	75,405	79,765	

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	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	Request vs. Appropriation
Capital Outlay	<u>0</u>	<u>4,703</u>	<u>4,703</u>	<u>6,946</u>	*
General Fund	0	4,703	4,703	6,946	
Training and Conferences	<u>42,996</u>	<u>60,916</u>	<u>60,000</u>	<u>60,000</u>	
General Fund	22,996	20,916	20,000	20,000	
Cash Funds	20,000	40,000	40,000	40,000	
Conflict-of-interest Contracts	<u>22,416,624</u>	<u>26,861,292</u>	<u>26,615,760</u>	<u>28,007,998</u>	*
General Fund	22,416,624	26,861,292	26,615,760	28,007,998	
Mandated Costs	<u>1,938,282</u>	<u>2,243,477</u>	<u>1,926,613</u>	<u>2,047,677</u>	*
General Fund	1,938,282	2,243,477	1,926,613	2,047,677	
TOTAL - (6) Office of the Alternate Defense Counsel	25,555,788	30,361,082	30,062,991	31,758,355	5.6%
FTE	<u>8.4</u>	<u>9.1</u>	<u>10.9</u>	<u>13.0</u>	<u>19.3%</u>
General Fund	25,535,788	30,321,082	30,022,991	31,718,355	5.6%
Cash Funds	20,000	40,000	40,000	40,000	0.0%

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(7) OFFICE OF THE CHILD'S REPRESENTATIVE

This independent agency provides legal representation for children involved in the court system due to abuse or neglect, delinquency, truancy, high conflict divorce, alcohol or drug abuse, mental health issues, and probate matters.

Personal Services	<u>1,905,492</u>	<u>1,925,171</u>	<u>2,295,026</u>	<u>2,442,114</u>	*
FTE	26.5	28.6	28.9	29.1	
General Fund	1,905,492	1,925,171	2,295,026	2,442,114	
Health, Life, and Dental	<u>195,658</u>	<u>186,552</u>	<u>222,248</u>	<u>218,190</u>	
General Fund	195,658	186,552	222,248	218,190	
Short-term Disability	<u>3,197</u>	<u>4,198</u>	<u>5,224</u>	<u>4,111</u>	*
General Fund	3,197	4,198	5,224	4,111	
S.B. 04-257 Amortization Equalization Disbursement	<u>59,322</u>	<u>76,543</u>	<u>104,479</u>	<u>103,850</u>	*
General Fund	59,322	76,543	104,479	103,850	
S.B. 06-235 Supplemental Amortization Equalization					
Disbursement	<u>53,380</u>	<u>71,580</u>	<u>100,917</u>	<u>102,767</u>	*
General Fund	53,380	71,580	100,917	102,767	
Salary Survey	<u>34,879</u>	<u>266,519</u>	<u>93,977</u>	<u>13,095</u>	
General Fund	34,879	266,519	93,977	13,095	
Merit Pay	<u>28,323</u>	<u>19,415</u>	<u>23,011</u>	<u>0</u>	
General Fund	28,323	19,415	23,011	0	
Operating Expenses	<u>241,195</u>	<u>242,477</u>	<u>193,354</u>	<u>193,354</u>	
General Fund	241,195	242,477	193,354	193,354	

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	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	Request vs. Appropriation
Leased Space	<u>102,120</u>	<u>103,618</u>	<u>105,137</u>	<u>106,680</u>	
General Fund	102,120	103,618	105,137	106,680	
CASA Contracts	<u>1,020,000</u>	<u>1,020,000</u>	<u>1,020,000</u>	<u>1,020,000</u>	
General Fund	1,020,000	1,020,000	1,020,000	1,020,000	
Training	<u>38,000</u>	<u>49,588</u>	<u>38,000</u>	<u>38,000</u>	
General Fund	38,000	49,588	38,000	38,000	
Court-appointed Counsel	<u>17,625,017</u>	<u>19,004,216</u>	<u>20,277,534</u>	<u>19,813,764</u>	*
General Fund	17,625,017	19,004,216	20,277,534	19,813,764	
Mandated Costs	<u>54,486</u>	<u>35,998</u>	<u>54,645</u>	<u>54,645</u>	
General Fund	54,486	35,998	54,645	54,645	
Title IV-E Training Grant	<u>9,390</u>	<u>19,515</u>	<u>9,390</u>	<u>9,390</u>	
Reappropriated Funds	9,390	19,515	9,390	9,390	
TOTAL - (7) Office of the Child's Representative	21,370,459	23,025,390	24,542,942	24,119,960	(1.7%)
FTE	<u>26.5</u>	<u>28.6</u>	<u>28.9</u>	<u>29.1</u>	<u>0.7%</u>
General Fund	21,361,069	23,005,875	24,533,552	24,110,570	(1.7%)
Reappropriated Funds	9,390	19,515	9,390	9,390	0.0%

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	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	Request vs. Appropriation
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(8) OFFICE OF THE RESPONDENT PARENTS' COUNSEL

This independent agency will provide legal representation for indigent parents involved in judicial dependency and neglect proceedings, effective July 1, 2016. Cash funds are received from private attorneys for training.

Personal Services	<u>0</u>	<u>0</u>	<u>362,975</u>	<u>1,177,365</u>	
FTE	0.0	0.0	2.7	10.0	
General Fund	0	0	362,975	1,177,365	
Health, Life, and Dental	<u>0</u>	<u>0</u>	<u>11,789</u>	<u>44,210</u>	
General Fund	0	0	11,789	44,210	
Short-term Disability	<u>0</u>	<u>0</u>	<u>562</u>	<u>2,013</u>	
General Fund	0	0	562	2,013	
S.B. 04-257 Amortization Equalization Disbursement	<u>0</u>	<u>0</u>	<u>11,236</u>	<u>43,930</u>	
General Fund	0	0	11,236	43,930	
S.B. 06-235 Supplemental Amortization Equalization					
Disbursement	<u>0</u>	<u>0</u>	<u>10,853</u>	<u>43,472</u>	
General Fund	0	0	10,853	43,472	
Salary Survey	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	
General Fund	0	0	0	0	
Merit Pay	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	
General Fund	0	0	0	0	
Operating Expenses	<u>0</u>	<u>0</u>	<u>25,433</u>	<u>60,800</u>	
General Fund	0	0	25,433	60,800	

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	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	Request vs. Appropriation
Capital Outlay	<u>0</u>	<u>0</u>	<u>435,140</u>	<u>0</u>	
General Fund	0	0	435,140	0	
Legal Services	<u>0</u>	<u>0</u>	<u>47,505</u>	<u>19,010</u>	
General Fund	0	0	47,505	19,010	
Case Management System	<u>0</u>	<u>0</u>	<u>37,500</u>	<u>337,500</u>	
General Fund	0	0	37,500	337,500	
Training	<u>0</u>	<u>0</u>	<u>15,000</u>	<u>60,000</u>	
General Fund	0	0	7,500	30,000	
Cash Funds	0	0	7,500	30,000	
Court-appointed Counsel	<u>0</u>	<u>0</u>	<u>0</u>	<u>9,973,326</u>	
General Fund	0	0	0	9,973,326	
TOTAL - (8) Office of the Respondent Parents'					
Counsel	0	0	957,993	11,761,626	1127.7%
<i>FTE</i>	<u>0.0</u>	<u>0.0</u>	<u>2.7</u>	<u>10.0</u>	<u>270.4%</u>
General Fund	0	0	950,493	11,731,626	1134.3%
Cash Funds	0	0	7,500	30,000	300.0%

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	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	Request vs. Appropriation
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(9) OFFICE OF THE CHILD PROTECTION OMBUDSMAN

This independent agency investigates complaints and reviews issues raised relating to child protection services, policies, and procedures, and makes recommendations to improve services and promote better outcomes for children and families receiving child protection services.

Program Costs	<u>0</u>	<u>0</u>	<u>207,274</u>	<u>483,876</u>	
FTE	0.0	0.0	2.0	4.0	
General Fund	0	0	207,274	483,876	

TOTAL - (9) Office of the Child Protection					
Ombudsman	0	0	207,274	483,876	133.4%
<i>FTE</i>	<u>0.0</u>	<u>0.0</u>	<u>2.0</u>	<u>4.0</u>	<u>100.0%</u>
General Fund	0	0	207,274	483,876	133.4%

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	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	Request vs. Appropriation
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(10) INDEPENDENT ETHICS COMMISSION

This independent agency is charged with hearing complaints, issuing findings, assessing penalties, and issuing advisory opinions on ethics issues that arise concerning public officers, members of the General Assembly, local government officials, or government employees.

Program Costs	<u>0</u>	<u>0</u>	<u>176,690</u>	<u>176,690</u>	
FTE	0.0	0.0	1.0	1.0	
General Fund	0	0	176,690	176,690	
Legal Services	<u>150,252</u>	<u>144,182</u>	<u>171,018</u>	<u>171,018</u>	
General Fund	150,252	144,182	171,018	171,018	
Salary Survey	<u>0</u>	<u>4,567</u>	<u>0</u>	<u>0</u>	
General Fund	0	4,567	0	0	
Personal Services	<u>118,832</u>	<u>110,555</u>	<u>0</u>	<u>0</u>	
FTE	2.0	0.0	0.0	0.0	
General Fund	118,832	110,555	0	0	
Health, Life, and Dental	<u>7,209</u>	<u>9,979</u>	<u>0</u>	<u>0</u>	
General Fund	7,209	9,979	0	0	
Short-term Disability	<u>183</u>	<u>226</u>	<u>0</u>	<u>0</u>	
General Fund	183	226	0	0	
S.B. 04-257 Amortization Equalization Disbursement	<u>4,335</u>	<u>4,042</u>	<u>0</u>	<u>0</u>	
General Fund	4,335	4,042	0	0	

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	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	Request vs. Appropriation
S.B. 06-235 Supplemental Amortization Equalization					
Disbursement	<u>3,917</u>	<u>3,794</u>	<u>0</u>	<u>0</u>	
General Fund	3,917	3,794	0	0	
Merit Pay	<u>0</u>	<u>1,827</u>	<u>0</u>	<u>0</u>	
General Fund	0	1,827	0	0	
Operating Expenses	<u>15,601</u>	<u>15,893</u>	<u>0</u>	<u>0</u>	
General Fund	15,601	14,676	0	0	
Cash Funds	0	1,217	0	0	
TOTAL - (10) Independent Ethics Commission	300,329	295,065	347,708	347,708	0.0%
FTE	<u>2.0</u>	<u>0.0</u>	<u>1.0</u>	<u>1.0</u>	<u>0.0%</u>
General Fund	300,329	293,848	347,708	347,708	0.0%
Cash Funds	0	1,217	0	0	0.0%
TOTAL - Judicial Department	544,650,445	598,604,377	674,482,707	690,768,726	2.4%
FTE	<u>4,210.5</u>	<u>4,318.5</u>	<u>4,592.3</u>	<u>4,611.7</u>	<u>0.4%</u>
General Fund	384,491,467	440,919,393	478,774,984	486,798,575	1.7%
Cash Funds	131,583,698	125,781,337	157,342,072	165,465,506	5.2%
Reappropriated Funds	23,306,497	26,315,170	33,940,651	34,079,645	0.4%
Federal Funds	5,268,783	5,588,477	4,425,000	4,425,000	0.0%

NOTE: An asterisk (*) indicates that the FY 2016-17 request for a line item is affected by one or more decision items.

Appendix B: Recent Legislation Affecting Department Budget

2015 Session Bills

S.B. 15-204 (Office of the Child Protection Ombudsman): Establishes the Office of the Child Protection Ombudsman (the Office) in the Judicial Department as an independent agency, and establishes the Child Protection Ombudsman Board to oversee the Office's personnel decisions, operating policies and procedures, and budget. By November 1, 2015, requires the Office to sign an administrative memorandum of understanding with the Judicial Department with an effective date of no later than January 1, 2016. Requires the Child Protection Ombudsman to make funding recommendations to the Joint Budget Committee for the operation of the Office. Modifies the existing Child Protection Ombudsman Program in the Department of Human Services, and authorizes the Executive Director of the Department of Human Services to extend the existing contract through December 31, 2015. Reduces the General Fund appropriation to the Department of Human Services for FY 2015-16 for the Child Protection Ombudsman by \$270,372 (from \$512,822 to \$242,450). Appropriates \$351,086 General Fund and 2.2 FTE to the Judicial Department for FY 2015-16 for the Office of the Child Protection Ombudsman and the Department's related capital outlay and administrative expenses.

S.B. 15-288 (Compensation Paid to Elected Officials): Replaces the existing fixed dollar salaries listed in statute for certain state officials and state legislators with a new method for determining salaries that aligns them to certain judicial officers' salaries. The new method for determining these salaries will begin January 2019, and salary amounts will be adjusted every four years to maintain the alignment.

Change in Salaries for Selected State Officials Beginning January 2019				
State Official	Current Salary (established January 1999)	Benchmarks for Salaries Beginning January 2019		
		Colorado Judicial Officer	Percent of Judicial Officer Salary	Estimated Salaries as of January 2019 ^{1/}
Governor	\$90,000	Chief Justice, Colorado Supreme Court	66.0%	\$128,049
Lieutenant Governor	68,500	County Court Judges, Class B Counties	58.0%	97,040
Attorney General	80,000	Chief Judge, Colorado Court of Appeals	60.0%	111,916
State Legislators	30,000	County Court Judges, Class B Counties	25.0%	41,828
Secretary of State	68,500	County Court Judges, Class B Counties	58.0%	97,040

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Change in Salaries for Selected State Officials Beginning January 2019				
State Official	Current Salary (established January 1999)	Benchmarks for Salaries Beginning January 2019		
		Colorado Judicial Officer	Percent of Judicial Officer Salary	Estimated Salaries as of January 2019 ^{1/}
Treasurer	68,500	County Court Judges, Class B Counties	58.0%	97,040

^{1/} Estimates are based on judicial officer salaries established for FY 2015-16 through footnote 45 of the FY 2015-16 Long Bill (S.B. 15-234), increased by estimated inflation rates of 2.5 percent in FY 2016-17 and 2.3 percent each fiscal year thereafter.

Increases statutory salaries for county commissioners, sheriffs, treasurers, assessors, clerks, coroners, and surveyors by 30.0 percent, effective January 2016. Requires the Director of Research of the Legislative Council to periodically adjust the salaries of these elected county officials for inflation, and post the adjusted salary amounts on the General Assembly's web site.

H.B. 15-1034 (Add One Judge): Adds one district court judge to the 12th judicial district (Alamosa, Conejos, Costilla, Mineral, Rio Grande, and Saguache counties). Appropriates a total of \$340,651 and 3.2 FTE (including \$333,631 General Fund and \$7,020 cash funds from the Judicial Department Information Technology Cash Fund) to the Judicial Department for FY 2015-16 for the trial courts, including funding for capital outlay expenses.

H.B. 15-1043 (Felony Offense for Repeat DUI Offenders): Increases the penalty for driving under the influence of alcohol or drugs (DUI), DUI per se, and driving while ability impaired (DWAI) from a misdemeanor to a class 4 felony after three or more prior convictions of a DUI, DUI per se, DWAI, vehicular homicide, vehicular assault, or any combination thereof. If the court sentences the defendant to the Department of Corrections (DOC) for a felony offense, the act requires the court to determine that incarceration is the most suitable option and to consider whether all other reasonable and appropriate sanctions and responses to the violation that are available to the court have been exhausted, do not appear likely to be successful if tried, or present an unacceptable risk to public safety. Reduces the penalty for aggravated driving with a revoked license from a class 6 felony to a class 1 misdemeanor, but requires the court to sentence the offender to a minimum term of 60 days in county jail. If a driver has had his or her driving privileges revoked for certain DUI-related offenses, requires that he or she hold an interlock-restricted license for at least two years and up to a maximum of five years following reinstatement; under current law the requirement is one year.

Appropriates a total of \$27,874,480 General Fund to DOC to cover the costs of housing additional offenders for the first five fiscal years of implementing the act. Appropriates a total of \$1,272,133 General Fund and 14.2 FTE to the Judicial Department for FY 2015-16 to cover additional trial court costs, the costs of supervising additional offenders sentenced to probation, and the costs of providing legal representation to additional offenders. All of these appropriations are detailed in the following table.

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H.B. 15-1043: General Fund Appropriations		
Purpose and Fiscal Year	Dollar Amount	FTE
<u>Appropriations to Judicial Department for FY 2015-16</u>		
Trial court programs	\$700,394	8.8
Probation programs	152,261	2.3
Capital outlay for courts and probation	231,126	
Office of the State Public Defender	<u>188,352</u>	<u>3.1</u>
Subtotal: Judicial	\$1,272,133	14.2
<u>Statutory Appropriations to the Department of Corrections</u>		
FY 2016-17	\$2,581,944	
FY 2017-18	6,497,158	
FY 2018-19	9,397,689	
FY 2019-20	<u>9,397,689</u>	
Subtotal: Corrections	\$27,874,480	
Total for all fiscal years and departments	\$29,146,613	14.2

H.B. 15-1149 (Office of the Respondent Parents' Counsel): Senate Bill 14-203 established the Office of Respondent Parents' Counsel (ORPC), a new independent agency within the Judicial Branch charged with ensuring the provision and availability of high-quality legal representation for respondent parents involved in dependency and neglect proceedings. The act required that all existing and new state paid court appointments for respondent parents' counsel be transferred from the State Court Administrator's Office (SCAO) to the ORPC by January 1, 2016. The act also directed a pre-existing work group to make recommendations concerning an operational structure for the new office. House Bill 15-1149 implements the work group's recommendations by: (a) establishing a nine-member governing commission to oversee the operations of the ORPC; (b) establishing minimum qualifications for the Director of the ORPC; and (c) delaying by six months the transfer of all existing appointments to the ORPC. House Bill 15-1149 adjusts FY 2015-16 appropriations to reflect the six month delay, reducing total appropriations by \$618,145 (including \$603,145 General Fund and \$15,000 cash funds from training fees) and decreasing by 1.1 the associated FTE.

H.B. 15-1153 (Child and Family Investigator Oversight): The court may appoint an individual to serve as a child and family investigator (CFI) to investigate, report, and make recommendations to the court on issues that affect the best interests of children involved in a domestic relations case. The oversight of court-appointed CFIs is currently shared by two judicial agencies:

- the Office of the Child's Representative (OCR) oversees state-paid CFIs who are attorneys; and
- the State Court Administrator's Office (SCAO) oversees state-paid CFIs who are not attorneys, as well as all privately-paid CFIs (both attorneys and non-attorneys).

House Bill 15-1153 consolidates oversight of all court-appointed CFIs under the SCAO, effective January 1, 2016. Adjusts FY 2015-16 appropriations, shifting \$143,919 General Fund

from the Office of the Child's Representative to the SCAO, and appropriating an additional \$27,580 General Fund to the SCAO to cover transition costs.

H.B. 15-1367 (Retail Marijuana Taxes): Refers a ballot issue to voters in November 2015, asking whether the State may retain and spend revenue collected from the Proposition AA excise and special sales taxes on retail marijuana in FY 2014-15. Independent of whether the voters approve the ballot issue, the act broadens purposes for which funds in the Marijuana Tax Cash Fund (MTCF) may be expended and requires that appropriations from the MTCF for jail-based behavioral health services be made through the Correctional Treatment Cash Fund. The act includes corresponding changes to FY 2015-16 Judicial Department appropriations, adding an appropriation of \$1,550,000 cash funds from the MTCF to the Correctional Treatment Cash Fund, as well as an appropriation of \$1,550,000 reappropriated funds from the Correctional Treatment Cash Fund to allow the Judicial Department to transfer these funds to the Department of Human Services for jail-based behavioral health services.

Relevant Bills From Previous Sessions

S.B. 14-190 (Statewide Discovery Sharing System): Turns the Discovery Task Force (created in S.B. 13-246) into a Steering Committee to assist the Colorado District Attorneys' Council (CDAC) in developing a process to select a vendor to develop a statewide discovery sharing system. Requires the CDAC to develop and maintain a statewide discovery sharing system ("discovery system") integrated with its existing ACTION case management system. Establishes a new criminal surcharge for persons who are represented by private counsel or appear without legal representation, and credits the resulting revenues to the newly created Statewide Discovery Sharing System Surcharge Fund. Requires the General Assembly to appropriate necessary moneys from the General Fund and the new cash fund to the Judicial Department to fund the development, continuing enhancement, and maintenance of the new discovery system as well as the maintenance and continuing enhancement of the existing ACTION system.

Gives civil immunity to a district attorney who, after making a good-faith effort to redact all information legally required to be redacted from a discovery document provided to a defendant or defense counsel, provides a document that contains information that is legally required to be redacted.

Appropriates \$5.3 million General Fund to the Judicial Department for FY 2014-15, and allows any unspent funds to remain available for expenditure in FY 2015-16.

H.B. 14-1096 (Underfunded Courthouse Facilities Grants): Creates a new state-funded grant program to provide supplemental funding for courthouse facility projects in certain counties. Creates the Underfunded Courthouse Facility Cash Fund Commission to evaluate grant applications and make grant award recommendations to the State Court Administrator. Requires grant funds to be used for master planning services, matching funds, leveraging grant funding opportunities, or addressing emergency needs due to the imminent closure of a court facility. Specifies financial and demographic factors to be met by a county in order to be considered for a grant award. Appropriates a total of \$1,400,000 and 1.0 FTE to the Judicial Department for FY 2014-15, including an appropriation of \$700,000 General Fund to the newly created

Underfunded Courthouse Facility Cash Fund and \$700,000 reappropriated funds from the new cash fund and 1.0 FTE for the administration of the new grant program.

S.B. 13-246 (Criminal Discovery Task Force): Creates a Discovery Task Force to meet to address the issue of discovery costs in criminal cases. In addition to a non-voting technology advisor from the Office of Information Technology, the Task Force consists of the following 11 members: (1) the Attorney General (or his designee), who shall serve as the Chair of the Task Force; (2) the State Court Administrator (or his designee), who shall serve as the Vice-Chair of the Task Force; (3) the State Public Defender (or his designee); (4) a representative of the criminal defense bar; (5) three district attorneys (DAs) who represent differently sized judicial districts; (6) a county sheriff; (7) the Alternate Defense Counsel (or her designee); (8) a chief of police; and (9) a district court judge. The Task Force is required to study several topics and report back to the Joint Budget Committee and the Judiciary Committees by January 31, 2014. Topics the Task Force will study include the following:

- The ability of DAs' offices to obtain law enforcement discoverable evidence in an electronic format, and options for addressing the short-term needs of law enforcement and DAs to facilitate greater use of electronic discovery;
- The reimbursements paid to reimburse DAs' offices for the expenses for which the DA is responsible related to the discovery process; and
- An alternative funding process to reimburse the DAs for appropriate discovery costs without requiring the State Public Defender, Alternate Defense Counsel, or any indigent *pro se* defendant to pay for discovery.

H.B. 13-1210 (Right to Legal Counsel in Plea Negotiations): Repeals a statute that requires an indigent person charged with a misdemeanor, petty offense, or motor vehicle or traffic offense to meet with the prosecuting attorney for plea negotiations before legal counsel is appointed. Clarifies that appointment of the State Public Defender to represent indigent persons applies when the charged offense includes a possible sentence of incarceration. Specifies that these changes are effective January 1, 2014, and apply to misdemeanors, petty offenses, class 2 and class 3 misdemeanor traffic offenses, and municipal or county ordinance violations committed on or after that date. Appropriates a total of \$3,795,400 General Fund and 37.9 FTE to the Judicial Department for FY 2013-14, including \$3,710,909 and 37.1 FTE to the Office of the State Public Defender, and \$84,491 and 0.8 FTE for the trial courts.

Appendix C:

Update on Long Bill Footnotes & Requests for Information

The following Long Bill Footnotes (LBF) and Requests for Information (RFI) relate to the Judicial Branch and are included in this Appendix:

Applicable to Multiple Agencies Within Judicial Branch

LBF #45 – Compensation for justices, judges, the State Public Defender, the Alternate Defense Counsel, the Executive Director of the Office of the Child's Representative, and the Director of the Office of the Respondent Parents' Counsel

Statewide RFI #6 – Inventory of state-owned buildings or structures

Judicial RFI #1 – State Court Administrator's Office report concerning state expenditures for compensation of expert witnesses and professionals who conduct mental health examinations or evaluations of juveniles or adults concerning either sanity or competency

Probation

LBF #47 – State funding for veterans treatment courts

Statewide RFI #1 – Cash funds that are utilized by multiple state agencies

Judicial RFI #3 – Recidivism rates

Judicial RFI #5 – Expenditures for testing, treatment, and assessments for offenders

Office of the State Public Defender

LBF #48 – Authority to transfer funds between line item appropriations

Judicial RFI #2 – Appellate case backlog

Office of the Alternate Defense Counsel

LBF #49 – Authority to transfer funds between line item appropriations

Office of the Child's Representative

LBF #50 – Authority to transfer funds between line item appropriations

LBF #51 – Authority to utilize \$25,000 to fund pilot program for domestic relations cases

Office of the Respondent Parents' Counsel

LBF #52 – Authority to transfer funds between line item appropriations

Independent Ethics Commission

LBF #53 – Authority to transfer funds between line item appropriations

District Attorneys

LBF #46 – Portion of state funding for District Attorney mandated costs provided for one or more specific cases

Judicial RFI #4 – State funding for District Attorney mandated costs

Long Bill Footnotes

- 45 **Judicial Department, Supreme Court/Court of Appeals, Appellate Court Programs; Trial Courts, Trial Court Programs; Office of the State Public Defender, Personal Services; Office of the Alternate Defense Counsel, Personal Services; Office of the Child's Representative, Personal Services; Office of the Respondent Parents' Counsel, Personal Services** -- In accordance with Section 13-30-104 (3), C.R.S., funding is provided for judicial compensation, as follows:

	FY 2014-15		FY 2015-16
	Salary	Increase	Salary
Chief Justice, Supreme Court	\$161,151	\$15,648	\$176,799
Associate Justice, Supreme Court	157,710	15,314	173,024
Chief Judge, Court of Appeals	154,933	15,044	169,977
Associate Judge, Court of Appeals	151,463	14,707	166,170
District Court Judge, Denver Juvenile Court Judge, and Denver Probate Court Judge	145,219	14,101	159,320
County Court Judge	138,972	13,494	152,466

Funding is also provided in the Long Bill to maintain the salary of the State Public Defender at the level of an associate judge of the Court of Appeals, and to maintain the salaries of the Alternate Defense Counsel, the Executive Director of the Office of the Child's Representative, and the Director of the Office of the Respondent Parents' Counsel at the level of a district court judge.

Comment: This footnote first appeared in the FY 1999-2000 Long Bill. Sections 13-30-103 and 104, C.R.S., established judicial salaries for various fiscal years during the 1990s [through H.B. 98-1238]. These provisions state that any salary increases above those set forth in statute "shall be determined by the general assembly as set forth in the annual general appropriations bill." The General Assembly annually establishes judicial salaries through this footnote in the Long Bill. The footnote also establishes the salaries for the individuals who head four of the independent judicial agencies by tying them to specific judicial salaries.

Please note that pursuant to S.B. 15-288, the salaries listed in statute for certain state officials and state legislators will also be benchmarked to certain judicial officers' salaries beginning in January 2019. Appendix B provides a more detailed description of this bill, including a table detailing each affected state official and the corresponding judicial officer salary.

As detailed in the above footnote, the FY 2015-16 budget includes funding to increase all of the salaries affected by this footnote by 9.71 percent. **The budget request submitted by the Chief Justice of the Supreme Court for FY 2016-17 includes funding to increase all judge and justice salaries by 5.0 percent.** The proposed increase represents the second phase of a proposal that was submitted as part of the Department's FY 2015-

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16 budget request to increase all judge and justice salaries by a total of 14.71 percent over two fiscal years.

The overall 14.71 percent increase was based on the gap between the FY 2014-15 salary for District Court Judges and the *maximum* of the pay ranges for attorney classifications in two other state agencies: Deputy Attorney General at the Department of Law (DOL); and three attorney classifications at the Office of the State Public Defender (OSPD):

DOL - Deputy Attorney General (<i>range maximum</i>)	\$167,414
OSPD – Chief Deputy/ Chief Trial Deputy/ Legal Division Director (<i>range maximum</i>)	\$165,756
Target: Average of two <i>range maximum</i> salaries	\$166,585
District Court Judge (<i>actual</i> salary for all judges)	\$145,219
Dollar difference	\$21,366
Percent increase required to reach target	14.71%

Please note that the Judicial Department's FY 2015-16 budget request included a document titled, "2014 Annual Compensation Report", to provide information about the basis for its FY 2015-16 request for salary increases. This document indicated that the overall 14.71 percent increase for judges was based on the current gap between the salary for District Court Judges and the *maximum* of the pay ranges for Deputy Attorneys General at the Department of Law (DOL); and "Office Heads" at the OSPD. However, the OSPD range *maximum* used in the calculation (above) does not correspond to the attorneys who manage the 22 OSPD regional offices. If the calculation had utilized the range maximum for this classification (\$159,912), the increase required to reach the target would have been \$18,444 (12.70 percent).

- 46 Judicial Department, Trial Courts, District Attorney Mandated Costs** -- It is the intent of the General Assembly that \$400,000 of the amount appropriated for District Attorney Mandated Costs be used only to reimburse mandated costs associated with one case: The People of the State of Colorado v. James Holmes (12CR1522). Should reimbursable mandated costs incurred in FY 2015-16 for this case total less than \$400,000, it is the intent of the General Assembly that the unexpended funds revert to the General Fund.

Comment: This footnote was first included in S.B 13-092, the supplemental bill for FY 2012-13. The footnote expresses the intent of the General Assembly that a portion of the amount appropriated for this line item only be used to reimburse mandated costs associated with one or more specific cases.

- In FY 2012-13, \$265,100 General Fund was provided for this purpose. A total of \$111,993 was used to reimburse mandated costs for the Holmes and Sigg cases, and the remaining \$153,107 reverted to the General Fund.

- In FY 2013-14, \$353,500 General Fund was provided for this purpose. A total of \$146,660 was used to reimburse mandated costs for the Holmes and Sigg cases, and the remaining \$206,840 reverted to the General Fund.
- In FY 2014-15, \$300,000 General Fund was provided for this purpose. A total of \$303,820 was used to reimburse mandated costs for the Holmes case. Thus \$3,820 of these expenditures came from the allocation for all other cases and none of the \$300,000 reverted to the General Fund.

As indicated in the above footnote, \$400,000 General Fund has been provided for the Holmes case for FY 2015-16. For FY 2016-17, the Colorado District Attorneys' Council (CDAC) is requesting \$0 General Fund for this case or any other specific, extraordinary cases. The CDAC indicates that the Arapahoe county District Attorney's office anticipates making all mandated cost payments related to this case by the end of December 2015, and the existing \$400,000 appropriation for that case should be sufficient to cover these expenditures.

- 47 Judicial Department, Probation and Related Services, Offender Treatment and Services** -- It is the intent of the General Assembly that \$624,877 of the General Fund appropriation for Offender Treatment and Services be used to provide treatment and services for offenders participating in veterans treatment courts, including peer mentoring services.

Comment:

Purpose of Footnote. The General Assembly initially added \$367,197 General Fund to the Offender Treatment and Services line item in the FY 2012-13 Long Bill for purposes of funding treatment and services for offenders participating in veterans treatment courts. This footnote accompanied the appropriation to state the intended use of such moneys. The General Assembly added \$257,680 General Fund in FY 2014-15 to provide funding for peer mentoring services for veterans treatment court participants. The Department has requested continuation of the full \$624,877 for FY 2016-17.

Allocation and Use of Funds. The funding described above is appropriated for the provision of treatment and services to offenders participating in veterans treatment courts. In addition, the Problem-solving Courts line item (in the Administration and Technology, Centrally Administered Programs subsection of the budget) provides funding for the staffing of problem-solving courts, including veterans treatment courts.

There are currently six veterans treatment courts in operation. Prior to FY 2015-16, the Department generally allocated the available funding among the five operational courts based on court capacity (*i.e.*, the number of individual participants that can be served). The Department indicates that the newest court (in Pueblo) is currently supported by grant funding, so the Department did not adjust the allocation of this funding for FY 2015-16. However, the Department will assess the allocation mid-year based on districts' anticipated expenditures and adjust the allocation accordingly.

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Veterans Treatment Courts: State Funding for Treatment and Services								
Judicial District	Location	County	Start Date	FY 2015-16 Capacity	Allocation of State Funds			
					FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16
1	Golden	Jefferson	April 2014	40	\$0	\$0	\$51,073	\$51,073
2	Denver	Denver	Fall 2011	30	56,000	56,000	92,073	92,073
4	Colorado Springs	El Paso	Fall 2009	150	269,500	245,000	379,585	379,585
10	Pueblo	Pueblo	January 2015	15	N/A	N/A	N/A	0
17	Brighton	Adams	January 2014	25		24,500	51,073	51,073
18	Castle Rock	Douglas	March 2013	30	24,500	24,500	51,073	51,073
Training/ IT system changes					17,000	17,000		0
Totals	6	6		290	\$367,000	\$367,000	\$624,877	\$624,877

Available funding is used to fill service gaps that cannot be met through existing veterans programs and services. In FY 2014-15, \$491,272 of this appropriation was spent for a variety of services, primarily including the following:

- Substance abuse treatment: \$162,653
- Drug testing services and supplies: \$80,556
- Emergency housing and food: \$30,448
- Transportation assistance: \$18,950
- Mental health services: \$12,195
- Incentives for offenders: \$11,008

48 Judicial Department, Office of the State Public Defender -- In addition to the transfer authority provided in Section 24-75-108 (5), C.R.S., up to 2.5 percent of the total Office of the State Public Defender appropriation may be transferred between line items in the Office of the State Public Defender.

Comment: This is the first of five footnotes that authorize the independent agencies to transfer a limited amount of funding among their own line item appropriations, over and above transfers that are statutorily authorized. Section 24-75-108 (5), C.R.S., allows the Chief Justice of the Colorado Supreme Court to authorize transfers between items of appropriation made to the Judicial Branch, subject to certain limitations. One of these limitations is expressed in Section 24-75-110, C.R.S., which limits the total amount of over expenditures and moneys transferred within the Judicial Branch to \$1.0 million per fiscal year.

The Office of the State Public Defender (OSPD) is in compliance with this footnote. This footnote provides the OSPD with the authority to transfer up to 2.5 percent of its total FY 2015-16 appropriation (\$2,170,706) between line items. In FY 2014-15, the OSPD transferred \$725,000 (0.9 percent) between line items. The following table details the line items affected by such transfers.

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Long Bill Line Item	Transfers In/ (Out)
Personal Services	(\$725,000)
Automation Plan	100,000
Mandated Costs	625,000
<i>Transfer to/(from) other agencies</i>	0
Net Transfers	0

- 49 Judicial Department, Office of the Alternate Defense Counsel --** In addition to the transfer authority provided in Section 24-75-108 (5), C.R.S., up to 2.5 percent of the total Office of the Alternate Defense Counsel appropriation may be transferred between line items in the Office of the Alternate Defense Counsel.

Comment: The Office of the Alternate Defense Counsel (OADC) is in compliance with this footnote. This footnote provides the OADC with the authority to transfer up to 2.5 percent of its total FY 2015-16 appropriation (\$751,575) between line items. In FY 2014-15, the OADC transferred \$394,877 (1.3 percent) between line items. In addition, the OADC received a transfer of \$640,000 from the Office of the Child's Representative (OCR) as allowed pursuant to Section 24-75-110, C.R.S., to cover OADC expenditures for Conflict of Interest Contracts and Mandated Costs. Thus, the latter transfer falls within the \$1.0 million statutory limitation on transfers within the Judicial Branch. The following table details the line items affected by such transfers.

Long Bill Line Item	Transfers In/ (Out)
Personal Services	\$2,651
Operating Expenses	(204)
Training and Conferences	916
Conflict of Interest Contracts	245,531
Mandated Costs	391,106
<i>Transfer to/(from) other agencies</i>	(640,000)
Net Transfers	0

- 50 Judicial Department, Office of the Child's Representative --** In addition to the transfer authority provided in Section 24-75-108 (5), C.R.S., up to 2.5 percent of the total Office of the Child's Representative's appropriation may be transferred between line items in the Office of the Child's Representative.

Comment: The Office of Child's Representative is in compliance with this footnote. This footnote provides the OCR with the authority to transfer up to 2.5 percent of its total FY 2015-16 appropriation (\$638,574) between line items. In FY 2014-15, the OCR transferred a total of \$79,000 (0.3 percent) between line items. In addition, a \$640,000 was transferred to the OADC to cover OADC expenditures for Conflict of Interest Contracts and Mandated Costs as allowed pursuant to Section 24-75-110, C.R.S. Thus, as mentioned for the OADC above, the latter transfer falls within the \$1.0 million statutory limitation on transfers within the Judicial Branch. The following table details the line items affected by such transfers.

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Long Bill Line Item	Transfers In/ (Out)
Personal Services	(\$79,000)
Operating Expenses	67,000
Training	12,000
Court Appointed Counsel	(640,000)
Mandated Costs	0
<i>Transfers to/(from) other agencies</i>	<i>640,000</i>
Net Transfers	0

51 Judicial Department, Office of the Child's Representative, Court-appointed Counsel

-- It is the intent of the General Assembly that the Office of the Child's Representative be authorized to utilize up to \$25,000 of this appropriation to fund a pilot program as authorized pursuant to Section 13-91-105 (1) (e), C.R.S., for the purpose of evaluating alternatives to the appointment of child and family investigators and child's legal representatives in domestic relations cases.

Comment:

Background Information. Under current law, the court may make two types of appointments in a domestic relations case that involves allocation of parental responsibilities:

- The court may appoint an attorney, a mental health professional, or any other individual with appropriate training and qualifications to serve as a child and family investigator (CFI). The CFI is required to investigate, report, and make recommendations in the form of a written report filed with the court; the CFI may be called to testify as a witness regarding his/her recommendations.
- The court may appoint an attorney to serve as a child's legal representative (CLR).

When the parties to the case are determined to be indigent, the Office of the Child's Representative (OCR) pays for attorney appointments. Expenditures by the OCR on appointments in domestic relations cases increased steadily from FY 2004-05 to FY 2008-09, from \$426,186 to \$801,945. However, from FY 2009-10 through FY 2014-15 expenditures have ranged between \$352,768 and \$478,766.

Long Bill Footnote. This footnote, initially included in the FY 2009-10 Long Bill, authorizes the OCR to utilize up to \$25,000 of the appropriation for Court-appointed Counsel to fund a pilot program for the purpose of evaluating alternatives to the appointment of CFIs and CLRs in domestic relations cases. The evaluation would determine whether the use of alternatives results in equal or better outcomes, and whether it reduces state expenditures.

The OCR has continued to support a pilot program in the 17th judicial district (Adams/Broomfield) to offer Early Neutral Assessment (ENA) to parties in domestic relations cases. During FY 2012-13, the 2nd judicial district (Denver) was added to the pilot project.

ENA offers trained two-person teams to help parties understand the strengths and weaknesses of their positions, assisting them to come to an early resolution. Each team consists of one attorney and one mental health expert, one of whom is male and the other female. When parties attend their initial status conference they often request a CFI or a hearing to determine parenting time. When this occurs, the Family Court Facilitator identifies cases that may be appropriate for a referral to the ENA pilot. ENA is a voluntary, free, confidential process. If the parties agree that they want to attend ENA, the session is scheduled within a month of the initial status conference.

The ENA session takes three to four hours, allowing each party to be heard (with their attorneys present if they have them). The evaluator team describes their impressions of a likely outcome and realistic parenting plan. If an agreement is reached during the ENA session, they are able to get that agreement to a judge and have it read into the record immediately.

The primary benefits of ENA are that it's voluntary, timely, and client-driven. The process allows each parent to feel heard and talk about what is important. ENA works well for cases where there is disagreement with parenting time schedules and decision making between parties. The approach the evaluators take is that it is not if decisions will be made about parenting time, it is how. In general, it is better for children for parents to make these decisions. Even when full agreement is not reached, the number of disagreements is often narrowed and communication between the parties is improved.

House Bill 15-1153 consolidates oversight of all court-appointed CFIs under the State Court Administrator's Office, effective January 1, 2016. Thus, the State Court Administrator's Office will take over responsibility for the ENA pilot program beginning January 1, 2016. The \$25,000 that has been available to the Office of the Child's Representative for ENA has been transferred to the Trial Court Programs line item to continue to support ENA services.

- 52** **Judicial Department, Office of the Respondent Parents' Counsel** -- In addition to the transfer authority provided in Section 24-75-108 (5), C.R.S., up to 2.5 percent of the total Office of the Respondent Parents' Counsel's appropriation may be transferred between line items in the Office of the Respondent Parents' Counsel.

Comment: This footnote provides the Office of the Respondent Parents' Counsel (ORPC) with the authority to transfer up to 2.5 percent of its total FY 2015-16 appropriation (\$23,950) between line items. As this is the first fiscal year that this agency exists, staff will report on actual transfers next year.

- 53** **Judicial Department, Independent Ethics Commission** -- In addition to the transfer authority provided in Section 24-75-108 (5), C.R.S., up to 10.0 percent of the total Independent Ethics Commission appropriation may be transferred between line items in the Independent Ethics Commission.

Comment: The Independent Ethics Commission is in compliance with this footnote. This footnote provides the Commission with the authority to transfer up to 10.0 percent of its total FY 2015-16 appropriation (\$34,771) between line items. In FY 2014-15, the Commission did not utilize this transfer authority.

Requests for Information

Requests Applicable to Multiple Departments, Including Judicial Branch

- 1 Department of Corrections; Department of Human Services; Judicial Department; Department of Public Safety; and Department of Transportation** -- State agencies involved in multi-agency programs requiring separate appropriations to each agency are requested to designate one lead agency to be responsible for submitting a comprehensive annual budget request for such programs to the Joint Budget Committee, including prior year, request year, and three year forecasts for revenues into the fund and expenditures from the fund by agency. The requests should be sustainable for the length of the forecast based on anticipated revenues. Each agency is still requested to submit its portion of such request with its own budget document. This applies to requests for appropriation from: the Alcohol and Drug Driving Safety Program Fund, the Law Enforcement Assistance Fund, the Offender Identification Fund, the Persistent Drunk Driver Cash Fund, and the Sex Offender Surcharge Fund, among other programs.

Comment: This request for information is intended to ensure that Departments coordinate requests that draw on the same cash fund. Each Department is required to include, as part of its budget request, a Cash Fund Report (a "schedule 9") for each cash fund it administers to comply with the statutory limit on cash fund reserves, and to allow both the Office of State Planning and Budgeting and the Joint Budget Committee to make informed decisions regarding the utilization of cash funds for budgeting purposes. For funds that are shared by multiple departments, the department that administers the fund is responsible for coordinating submission of expenditure and revenue information from all departments to construct a schedule 9 that incorporates all activity in the fund.

Each of the funds referenced in this RFI are listed below, with a brief explanation of fund revenues and authorized expenditures.

Alcohol and Drug Driving Safety Program Fund [Section 42-4-1301.3 (4) (a), C.R.S.] - Section 42-4-1301.3, C.R.S., sets forth sentencing guidelines for persons convicted of driving under the influence (DUI), persons convicted of driving while ability impaired (DWAI), and persons who are habitual users of a controlled substance who are convicted of driving a vehicle. The Judicial Department is required to administer an Alcohol and Drug Driving Safety (ADDS) Program in each judicial district. This program is to provide: (1) pre-sentence and post-sentence alcohol and drug evaluations of all persons convicted of driving violations related to alcohol or drugs; and (2) supervision and monitoring of those persons whose sentences or terms of probation require completion of a program of alcohol and drug driving safety education or treatment.

The ADDS Program Fund consists of assessments designed to ensure that the ADDS Program is self-supporting. Assessments include fees paid by individuals for alcohol and drug evaluations, as well as inspection fees paid by approved alcohol and drug treatment facilities. The evaluation fee was increased from \$181 to \$200 in FY 2007-08. Moneys in the Fund are subject to annual appropriation to the Judicial Department and the Department of Human Services' Office of Behavioral Health for the administration of the ADDS Program. These two departments are required to propose changes to these assessments as required to ensure that the ADDS Program is financially self-supporting. Any adjustment in the assessments approved by the General Assembly is to be "noted in the appropriation...as a footnote or line item related to this program in the general appropriations bill".

The Judicial Department's FY 2016-17 budget request includes a schedule 9 for this fund. The Judicial Department receives a direct appropriation from the Fund to support probation programs (\$6,504,320 for FY 2015-16), and a portion of this funding is transferred to the Department of Human Services for the administration of alcohol and drug abuse services (\$458,257 for FY 2015-16). However, fund revenues are not currently sufficient to support these appropriations, so a program restriction of \$3,000,000 has been put in place for the Judicial Department for FY 2015-16.

Law Enforcement Assistance Fund [Section 43-4-401, C.R.S.] – This fund consists of revenues from a \$75 surcharge on drunk and drugged driving convictions to help pay for enforcement, laboratory charges, and prevention programs. Moneys in the fund are appropriated to the Department of Human Services (for a statewide program for the prevention of driving after drinking), the Department of Public Health and Environment (for evidential breath alcohol testing and implied consent specialists), and the Department of Public Safety's Colorado Bureau of Investigation (for toxicology laboratory services). Remaining funds are credited to a Drunken Driving Account and made available to the Department of Transportation's Office of Transportation Safety for allocation to local governments for drunken driving prevention and law enforcement programs. The Judicial Department does not receive any appropriations from this fund. The Department of Transportation's FY 2016-17 budget request includes a schedule 9 for this fund.

Offender Identification Fund [Section 24-33.5-415.6 (1), C.R.S.] - This fund consists of payments for genetic testing received from certain adult and juvenile offenders. The testing fee is currently \$128. Every individual who is arrested or charged for a felony must provide a DNA sample to the local law enforcement agency as part of the booking process, unless the Colorado Bureau of Investigation (CBI) already has a sample. There is also a surcharge of \$2.50 on defendants for each criminal action resulting in a conviction or a deferred judgment and sentence for a felony, misdemeanor, misdemeanor traffic charges, and traffic infractions.

The Judicial Department is responsible for collecting biological substance samples from offenders who are sentenced to probation. The Department of Corrections, the Department of Human Services' Division of Youth Corrections, county sheriffs, and community corrections programs are responsible for collecting biological substance

samples from offenders in their custody. The CBI is responsible for conducting the chemical testing of the samples, storing and preserving the samples, filing and maintaining test results, and furnishing test results to law enforcement agencies upon request. The CBI is also required to provide test kits to local law enforcement agencies throughout the state to collect DNA samples from arrestees.

Moneys in the Fund are subject to annual appropriation to the Judicial Department and the Department of Public Safety to pay for genetic testing of offenders. The Judicial Department receives a direct appropriation from the Fund (\$61,468 for FY 2015-16). The Judicial Department prepared a schedule 9 for this fund upon request as it was not included in any agency's budget request.

Persistent Drunk Driver Cash Fund [Section 42-3-303 (1), C.R.S.] - This fund consists of penalty surcharge fees paid by persons convicted of DUI, DUI per se, or DWAI, as well as a person who is a habitual user of a controlled substance who is convicted of a misdemeanor for driving a vehicle. Moneys in the Fund are subject to annual appropriation to:

- pay the costs incurred by the Department of Revenue concerning persistent drunk drivers;
- pay for costs incurred by the Department of Revenue for computer programming changes related to treatment compliance for persistent drunk drivers;
- support programs that are intended to deter persistent drunk driving or intended to educate the public, with particular emphasis on the education of young drivers, regarding the dangers of persistent drunk driving;
- pay a portion of the costs of intervention and treatment services for persistent drunk drivers who are unable to pay for such services;
- assist in providing court-ordered alcohol treatment programs for indigent and incarcerated offenders;
- assist in providing approved ignition interlock devices for indigent offenders; and
- assist in providing continuous monitoring technology or devices for indigent offenders.

The Judicial Department receives moneys from the Fund transferred from the Department of Human Services (\$888,341 for FY 2015-16). The Department of Human Services' FY 2016-17 budget request includes a schedule 9 for this fund.

Sex Offender Surcharge Fund [Section 18-21-103 (3), C.R.S.] - This fund consists of 95 percent of sex offender surcharge revenues. These surcharges range from \$150 to \$3,000 for each conviction or adjudication. Moneys in the Fund are subject to annual appropriation to the Judicial Department, the Department of Corrections, the Department of Public Safety's Division of Criminal Justice, and the Department of Human Services to cover the direct and indirect costs associated with the evaluation, identification, and treatment and the continued monitoring of sex offenders. Pursuant to Section 16-11.7-103 (4) (c), C.R.S., the Sex Offender Management Board (SOMB) is required to develop a

plan for the allocation of moneys deposited in the Fund, and to submit the plan to the General Assembly.

The Judicial Department receives a direct appropriation from the Fund to support treatment and services for offenders on probation (\$302,029 for FY 2015-16). Under the plan submitted by the SOMB, this appropriation would not change for FY 2016-17. The Judicial Department prepared a schedule 9 for this fund upon request as it was not included in any agency's budget request.

6. **All Departments** -- All Departments that own or have administrative custody of or administrative responsibility for State-owned buildings or structures are requested to provide by October 1, 2015, to the Joint Budget Committee an inventory list of all such department buildings or other department structures that are 50 years or older; each building's or structure's general condition and use status; and the estimated cost to address controlled maintenance needs or to provide for demolition.

Comment: This request for information is discussed in Alfredo Kemm's staff budget briefing presentation concerning Capital Construction Issues, dated November 12, 2015.

Requests Applicable to Judicial Branch Only

1. **Judicial Department, Trial Courts, Court Costs, Jury Costs, and Court-appointed Counsel; Trial Courts, District Attorney Mandated Costs; Office of the State Public Defender, Mandated Costs; and Office of the Alternate Defense Counsel, Mandated Costs** – The State Court Administrator's Office (SCAO) is requested to provide by November 1, 2015, a report concerning state expenditures for compensation of expert witnesses and professionals who conduct mental health examinations or evaluations of juveniles or adults concerning either sanity (pursuant to Article 8 of Title 16, C.R.S.) or competency (pursuant to sections 16-8.5-101, et seq. or 19-2-1302, C.R.S.), including the following information: (1) An explanation of the circumstances under which the court pays for such services and when such services must be paid by district attorneys' offices, the Office of the Public Defender (OSPD), or the Office of the Alternate Defense Counsel (OADC); (2) Total expenditures of state funds appropriated to the Judicial Branch for FY 2014-15 for such services; (3) the range of hourly rates paid with state funds in FY 2014-15 for such services; (4) whether the existing limitation on the hourly fee paid for such services in Chief Justice Directive 12-03 is high enough to attract a reasonable number of qualified professionals to perform such services; (5) whether the existing maximum fee per case limitation in Chief Justice Directive 12-03 is high enough to allow a qualified professional to spend a sufficient number of hours to complete a required evaluation, prepare a report, or testify as an expert witness at a court hearing; and (6) whether Chief Justice Directive 12-03 should be modified to increase the maximum hourly fee or the maximum fee per case for certain types of professionals or certain types of services and the fiscal impact of any such modifications on each affected judicial agency. The SCAO is requested to prepare the report with input from the OSPD, OADC, and the Colorado District Attorneys' Council, and those agencies are requested to cooperate with the SCAO as necessary to prepare the requested report.

Comment: The Department submitted a response as requested. Please see the issue brief titled, "Rates Paid for Mental Health Evaluations", for more information about the response and related policy issues.

2. **Judicial Department, Office of the State Public Defender** – The State Public Defender is requested to provide by November 1, 2015, a report concerning the Appellate Division's progress in reducing its case backlog, including the following data for FY 2014-15: the number of new cases; the number of opening briefs filed by the Office of the State Public Defender; the number of cases resolved in other ways; the number of cases closed; and the number of cases awaiting an opening brief as of June 30, 2015.

Comment: In the Fall of 2013, the Office of the State Public Defender (OSPD) submitted a request to add 16.0 FTE to reduce a growing backlog of appellate cases. This funding request was submitted in response to a request for information from the General Assembly. The General Assembly approved the request and appropriated \$839,684 General Fund for FY 2014-15, and added a subsequent request for information (above) to monitor the OSPD's progress in reducing the backlog. The Committee submits a similar request for information to the Department of Law to monitor that agency's progress in reducing the backlog of criminal appellate cases. The OSPD provided the information requested, which is discussed below. Staff has also included background information concerning: the OSPD appellate workload; the consequences of a growing case backlog; and the OSPD's request for additional appellate resources for FY 2014-15.

OSPD's November 1, 2015 Response. The OSPD provided the requested data for FY 2014-15, which is included in Table 1, below. The OSPD indicates that the Appellate Division is expected to carry a total of 2,299 active felony appeals cases in FY 2015-16, including:

- the backlog of 738 cases carried over from previous years for which an opening brief has not yet been filed;
- 576 new cases for which an opening brief has not yet been filed; and
- 985 cases at various stages of the process.

The OSPD indicates that the recruiting, hiring, and training of the new attorneys required more time than anticipated, and the Division experienced an average of 4.25 vacant FTE per month in FY 2014-15. As a result, the average number of opening briefs annually filed per FTE declined from 11.6 in FY 2013-14 to 10.2 in FY 2014-15. The Division expects this average to increase to 11.9 starting in FY 2015-16.

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TABLE 1										
OSPD Appellate Division Staffing and Felony Appeal Caseload Statistics as of November 1, 2015										
Fiscal Year	Funded Attorney FTE in Appellate Division				Felony Appeals Caseload Data					
	Management, Supervision, and Complex Case Management	County Court and Juvenile Appeals	Felony Appeals	Total	Total Active Felony Appeals	New Cases	Opening Briefs Filed by OSPD	Cases Resolved Other Ways	Total Cases Closed	Cases Awaiting Opening Brief ("backlog")
1999-00			25.0	25.0	825	487			387	369
2007-08			29.0	29.0	1,834	606	465	121	586	611
2008-09			31.8	31.8	1,804	627	450	205	655	583
2009-10			31.8	31.8	1,784	602	427	124	551	634
2010-11			31.8	31.8	1,840	575	415	142	557	652
2011-12			34.8	34.8	1,939	589	460	133	593	648
2012-13	1.0		33.8	34.8	1,931	585	427	135	562	671
2013-14	4.0		31.8	35.8	2,341	573	367	127	495	749
2014-15	4.0	2.0	41.3	47.3	2,282	533	422	122	544	738
2015-16 Proj.	3.0	2.0	42.3	47.3	2,299	576	502	132	633	681
2016-17 Proj.	3.0	2.0	42.3	47.3	2,322	576	502	132	633	624
2017-18 Proj.	3.0	2.0	42.3	47.3	2,264	576	502	132	633	566
2018-19 Proj.	3.0	2.0	42.3	47.3	2,207	576	502	132	633	509
2019-20 Proj.	3.0	2.0	42.3	47.3	2,150	576	502	132	633	452
2020-21 Proj.	3.0	2.0	42.3	47.3	2,093	576	502	132	633	395

As noted above, the Department of Law is required to provide similar statistics to allow the General Assembly to monitor its progress in reducing its backlog of criminal appellate cases. Staff has provided Table 2, below, to summarize the data provide by both agencies.

TABLE 2						
Department of Law (LAW) and Office of the State Public Defender (OSPD) Felony Appeals Case Statistics as of November 1, 2015						
Fiscal Year	OSPD			LAW		
	Total Active Felony Cases	Opening Briefs Filed	Case Backlog	Opening Briefs Received	Answer Briefs Filed	Case Backlog
2009-10	1,784	427	634	1,152	1,054	434
2010-11	1,840	415	652	1,050	1,021	398
2011-12	1,939	460	648	1,171	894	608
2012-13	1,931	427	671	1,018	885	564
2013-14	2,341	367	749	911	1,149	272
2014-15	2,282	422	738	952	1,017	168

The Department of Law has been successful in reducing its backlog of cases for which an answer brief has not been filed, particularly with the additional resources that were provided in FY 2013-14. The OSPD did achieve a modest reduction in its backlog in FY 2014-15 with the additional resources it received last year. However, this reduction was not has large as anticipated, and the OSPD is now projecting that it will require eight

years (rather than five) to achieve a sustainable backlog level (of about 335). Specifically, the OSPD anticipated filing 538 opening briefs in FY 2014-15, but it only filed 422. In addition to the delay in filling the new positions in FY 2014-15, the OSPD identifies the following three factors that have and will continue to affect its ability to reduce its backlog as initially anticipated:

- **Death penalty cases:** In fiscal years 2012-13 and FY 2013-14 the OSPD picked up three complex cases, including two death penalty cases. In accordance with American Bar Association standards, the OSPD re-aligned its staffing resources to support the capital litigation for these cases. The OSPD does not currently have any death penalty cases so it has shifted some staffing resources back to assist with felony appeals cases awaiting an opening brief.
- **Supervision:** Although recognized as a need in earlier years, in FY 2013-14 the OSPD began calculating the need to reduce caseloads for supervisors to reflect the amount of time spent on supervision and management activities, and therefore the reduced amount of time that is available to work on an specific cases. The workload for a team lead now reflects 75 percent of a regular caseload. This change has thus reduced the projected number of opening briefs that will be filed annually.
- **Incomplete records:** The OSPD's Appellate Division is dealing with more incomplete record issues than it has in the past. The OSPD estimates that the number of cases with incomplete records has increased from about 10 percent to 30 percent. When incomplete records are found, staff requires additional time to acquire complete records before an opening brief can be filed. The OSPD has discussed this issue with the Court of Appeals.

Background Information - OSPD Appellate Workload and Backlog. The OSPD represents indigent criminal defendants in both the trial and appellate courts. With respect to felony appeals, the OSPD's central Appellate Division represents appeals from all indigent clients throughout the state, regardless of who may have represented them in prior court proceedings (*e.g.*, court-appointed, Alternate Defense Counsel, and private attorneys). Prior to FY 2014-15, the OSPD's regional trial offices handled county court and juvenile appeals in their respective jurisdictions; now the Appellate Division handles these appeals as well.

The Department of Law also handles criminal appeals, representing the prosecution when a defendant challenges his or her felony conviction before the state appellate court or the federal courts. For FY 2013-14, the General Assembly provided additional resources for the Department of Law to reduce its backlog of cases awaiting the filing of an answer brief. As the Department of Law reduces its backlog, the OSPD is required to respond more quickly by filing a reply brief, thus exacerbating the OSPD's backlog of cases awaiting the filing of opening briefs. Given this dynamic, and with the goal of reducing the overall time required to process criminal appeals cases, the General Assembly requested that the State Public Defender provide information concerning his Office's

appellate case backlog, and the potential resources that would be required to reduce the backlog to a reasonable level within five fiscal years.

The OSPD reported that its backlog of appellate cases awaiting the filing of an opening brief had increased from 369 in June 2000 to 671 in June 2013; with existing resources this backlog was projected to continue growing by 26 cases per year. From FY 1999-00 through FY 2009-10, the number of new appellate cases for the OSPD increased at an annual rate of 3.8 percent. On average, the number of new cases outpaced the number of closed cases, resulting in a growing number of active cases.

Background Information - Consequences of Growing Backlog. The timeline established by Colorado Appellate Rules contemplates a total of 252 days between the entry of judgment in district court and the filing of a reply brief. These rules require Opening Briefs to be filed 42 days after the record on appeal is filed, followed by an answer brief 35 days later, and a reply brief 21 days later. Due to the backlogs experienced by both the OSPD and the Department of Law, the Court of Appeals had been granting significant extensions for both opening briefs and answer briefs. However, in November 2012, the Court announced a more restrictive policy regarding extensions of time.

On July 1, 2013, the Court of Appeals dismissed an appeal in *People v. Rodney Eddy* (Case No. 10CA2492), a case handled by the OSPD. The Court's dismissal order cited the significant extensions of time that had been granted to date and the Court's new policy related to extensions, and indicated that the Court was not persuaded that further extensions were warranted. The OSPD immediately requested that the Court of Appeals reconsider its dismissal order. The Department of Law and the Office of the Alternate Defense Counsel supported the OSPD request to reinstate Mr. Eddy's appeal since dismissals of criminal appeals would result in a claim of ineffective assistance of counsel against the OSPD, thus impacting the workload of those agencies. In light of this, indications that the OSPD planned to request additional resources to address its backlog, as well as the progress the OSPD had made in reducing its backlog of the oldest cases, the Court reinstated Mr. Eddy's appeal in August 2013.

OSPD Funding Request. The OSPD's FY 2014-15 budget request included funding to add 16.0 FTE to its Appellate Division, as described below:

- Add 8.0 FTE attorneys in the Appellate Division to increase the number of opening briefs that are filed each year, reducing the backlog by about 99 each year or nearly 500 over five years.
- Add 2.0 FTE attorneys in the Appellate Division to handle county court and juvenile appellate cases. Previously, OSPD regional offices handled all county court and juvenile appeals. The OSPD proposed consolidating county, juvenile, and felony appeals in the OSPD's Appellate Division to make the appellate process more efficient and effective.

- Add 1.0 FTE attorney to handle the additional reply brief workload anticipated to result from the resources recently provided to the Department of Law.
- Add 5.0 FTE paralegals and administrative staff to support the above 11.0 FTE attorneys.

3. **Judicial Department, Probation and Related Services** – The State Court Administrator's Office is requested to provide by November 1 of each year a report on pre-release rates of recidivism and unsuccessful terminations and post-release recidivism rates among offenders in all segments of the probation population, including the following: adult and juvenile intensive supervision; adult and juvenile minimum, medium, and maximum supervision; and the female offender program. The Office is requested to include information about the disposition of pre-release failures and post-release recidivists, including how many offenders are incarcerated (in different kinds of facilities) and how many offenders return to probation as the result of violations.

Comment: The Department submitted the information, as requested. On June 30, 2014, there were 74,779 offenders on probation in Colorado,²⁰ including 70,480 adults and 4,299 juveniles. This report concerns recidivism among the 39,736 probationers who were terminated during FY 2013-14. The information and key findings contained in the report are summarized below.

Supervision of Offenders Sentenced to Probation

Probation officers use validated instruments²¹ to assess an individual's risk of reoffending in order to allocate resources based on risk. This involves an evaluation of an offender's "criminogenic needs" – those risk factors that are predictors of future criminal behavior.²² Probationer officers supervise offenders within the community according to their assessed risk level and with a focus on positive behavior change. Probationers are referred to appropriate community-based treatment and skill-based programs based upon their assessed needs. Many problem-solving courts (e.g. Adult Drug Court) are utilized throughout the state to address those offenders who are higher risk and have significant treatment needs.

²⁰ The total of 74,779 includes individuals under state and private (DUI and non-DUI) probation supervision. An additional 4,804 offenders were monitored by state probation but were not part of this study.

²¹ Colorado probation officers use the Level of Supervision Inventory (LSI) to classify adults according to risk level and the Colorado Juvenile Risk Assessment, or CJRA) to classify juveniles. The LSI is a research-based, reliable and valid, actuarial risk instrument that predicts outcome (success on supervision and recidivism). The LSI is commonly used by probation and parole officers and other correctional workers in the United States and abroad. The CJRA is based on similar research used to develop the LSI, but it was developed by Colorado criminal justice professionals and validated on a Colorado sample of juvenile offenders. Both of these classification tools result in one of three supervision levels: minimum, medium, or maximum.

²² Colorado Probation identifies the following eight criminogenic needs (with the first four being the most important): history of anti-social behavior; anti-social personality pattern; anti-social attitudes/cognition; anti-social associates/peers; family/marital stressors; lack of employment stability or work/educational achievement; lack of pro-social activities; and substance abuse.

Pre-release Recidivism

- Pre-release recidivism rates decreased slightly for juveniles and increased slightly for most adults compared to the prior year. For FY 2013-14, 27.0 percent of juveniles on regular probation either committed a new crime or a technical violation while under supervision (a 0.5 percent decrease compared to FY 2012-13). For FY 2013-14, 28.5 percent of adults on regular probation either committed a new crime or a technical violation while under supervision (a 1.6 percent increase compared to FY 2012-13).
- As expected based on their risk assessment, both juveniles and adults supervised at the most intensive level and those supervised by other agencies (*e.g.*, county jail work release programs, detention centers, or residential placements) were most likely to fail while under supervision. This is true even among probationers who are categorized as being under "regular" supervision. For example, among adults on regular probation, the overall pre-release failure rate was 28.5 percent for FY 2013-14. However, this failure rate ranged from 4.3 percent for individuals on minimum supervision level to 21.2 percent for those on medium supervision level to 64.6 percent for those on maximum supervision level.
- Probation is more likely to be revoked due to offenders committing technical violations rather than a new crime. The proportion of offenders who are terminated from probation due to technical violations has generally declined over the last several years, with a slight increase in FY 2013-14 in a couple of case types. The division continues to focus on providing officers with training and tools to respond to technical violations with intermediate sanctions and avoiding revocation when appropriate.

Post-release Recidivism

- Of the 2,301 juveniles who successfully completed regular probation supervision, 317 (13.8 percent) received a new filing within one year. Of the 147 juveniles who successfully completed intensive probation supervision, 12 (8.2 percent) received a new filing.
- Of the 25,046 adults who successfully completed regular probation supervision, 1,280 (5.1 percent) received a new filing within one year. This is the lowest post-release recidivism rate for regular adult probation programs in the past 11 years – a significant accomplishment as the majority of individuals under supervision (88.1 percent in FY 2013-14) are included in this population. Post-release recidivism rates for those who successfully completed the Adult Intensive Supervision Program (AISP) and the Female Offender Program (FOP) were 1.2 percent and 4.4 percent, respectively.

Overall Success Rate

- The overall success rate, defined as individuals who successfully completed probation and did not receive a new filing within one year of leaving probation supervision,

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increased for juveniles and for adults under intensive supervision. The overall success rates for adults on regular supervision and those on FOP decreased.

- For juveniles under regular supervision, 62.9 percent were successful one year after release. For adults under regular supervision, 67.9 percent were successful one year after release.

The following table summarizes recidivism data for both adults and juveniles with a "regular" (rather than intensive) supervision level, for the most recent ten fiscal years.

Probation Recidivism Rates Termination Cohorts for Fiscal Years 2004-05 Through 2013-14 a/					
Supervision Level at Time of Termination	Fiscal Year	Pre-release Recidivism b/		Post-Release Recidivism c/	Overall Success d/
		Technical Violation	New Crime		
Juvenile - Regular	2004-05	25.7%	6.2%	9.9%	58.2%
	2005-06	23.8%	6.6%	10.7%	58.9%
	2006-07	21.5%	6.8%	11.6%	60.1%
	2007-08	20.9%	6.6%	11.1%	61.4%
	2008-09	19.3%	7.0%	11.3%	62.4%
	2009-10	19.9%	7.1%	10.3%	62.7%
	2010-11	15.0%	5.9%	12.4%	66.7%
	2011-12	17.8%	7.6%	10.9%	63.7%
	2012-13	20.0%	7.5%	9.8%	62.7%
	2013-14	19.5%	7.5%	10.1%	62.9%
3,152	Individuals	614	237	317	1,984
Adult - Regular	2004-05	32.6%	6.1%	4.9%	56.4%
	2005-06	33.0%	6.3%	5.0%	55.7%
	2006-07	31.8%	7.1%	5.2%	55.9%
	2007-08	29.3%	6.3%	4.7%	59.7%
	2008-09	25.0%	6.1%	4.6%	64.3%
	2009-10	21.2%	5.5%	4.4%	68.9%
	2010-11	20.0%	5.0%	4.3%	70.6%
	2011-12	20.4%	5.1%	4.5%	70.0%
	2012-13	21.6%	5.3%	3.8%	69.3%
	2013-14	23.3%	5.2%	3.7%	67.9%
35,022	Individuals	8,156	1,820	1,280	23,766

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Probation Recidivism Rates					
Termination Cohorts for Fiscal Years 2004-05 Through 2013-14 a/					
Supervision Level at Time of Termination	Fiscal Year	Pre-release Recidivism b/		Post-Release Recidivism c/	Overall Success d/
		Technical Violation	New Crime		

a/ Data for all fiscal years prior to FY 2009-10 excludes DUI offenders. Beginning in FY 2009-10, data includes DUI offenders under state or private probation supervision who are receiving some probation services; DUI offenders who were under private probation supervision, were "monitored" by state probation, but received no additional probation services continue to be excluded in all fiscal years. In addition, Denver County Court filing data was only made available to Judicial's ICON/Eclipse system (the Judicial Branch's management information system) for FY 2005-06 and FY 2006-07. Thus, post-release recidivism rates may be understated for fiscal years 2004-05, 2007-08, and subsequent fiscal years.

b/ "Pre-release Recidivism" includes an adjudication or conviction for a felony or a misdemeanor, or a technical violation relating to a criminal offense, while under supervision in a criminal justice program.

c/ "Post-release Recidivism" include a filing for a felony or misdemeanor (whether or not it resulted in a conviction) within one year of termination from program placement for a criminal offense.

d/ "Overall success" reflects those offenders who did not recidivate either prior to or for one year following release.

Intensive Supervision Programs

The intensive supervision programs for juveniles (JISP), adults (AISP), and adult females (FOP) were designed as alternatives to incarceration. Offenders placed on these programs have higher risks related to the probability of program failure and the commission of a new crime, and they typically have higher levels of identified needs. The outcomes for these intensive programs in relation to regular supervision are summarized below:

- The overall success rate for JISP is significantly lower than for regular juvenile supervision – 42.3 percent compared to 62.9 percent. For juveniles who terminated probation for *technical violations*, 58.5 percent on JISP were sentenced to the Division of Youth Corrections (DYC) or the Department of Corrections (DOC), compared to 25.0 percent on regular probation.²³ For juveniles who terminated probation for committing a *new crime*, 72.9 percent on JISP were sentenced to DYC or DOC, compared to 35.9 percent on regular probation.
- The overall success rate for AISP is lower than for regular adult supervision – 60.8 percent compared to 67.9 percent. For adults who terminated probation for *technical violations*, 50.7 percent on AISP were sentenced to DOC, compared to 5.8 percent on regular probation.²⁴ For adults who terminated probation for committing a *new crime*, 82.7 percent on AISP were sentenced to DOC, compared to 18.3 percent on regular probation.
- The overall success rate for FOP, 62.3 percent, is slightly lower than for regular adult supervision. For adults who terminated probation for *technical violations*, 34.0

²³ The remaining juveniles who terminated probation were: (a) sentenced to detention or county jail; (b) received an alternate sentence such as fines, community service, or classes; or (c) did not receive a subsequent sentence.

²⁴ The remaining adults who terminated probation were: (a) sentenced to county jail; (b) received an alternate sentence such as fines, community service, or classes; or (c) did not receive a subsequent sentence.

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percent on FOP were sentenced to DOC, compared to 5.8 percent on regular probation. For adults who terminated probation for committing a *new crime*, 84.8 percent on FOP were sentenced to DOC, compared to 18.3 percent on regular probation.

To the extent that these intensive programs divert high risk offenders who would otherwise be incarcerated, they are cost effective. Specifically, for FY 2013-14:

- JISP redirected as many as 135 juveniles from NYC, including 49 who left probation and did not recidivate within one year and 86 who succeeded and were transferred to regular probation. The annual cost to serve a juvenile in NYC in FY 2013-14 was \$65,404, compared to \$5,583 for JISP.
- AISP redirected as many as 650 offenders from DOC, including 51 who left probation and did not recidivate within one year and 599 who succeeded and were transferred to regular probation. FOP redirected as many as 109 women from DOC, including 25 who left probation and did not recidivate within one year and 84 who succeeded and were transferred to regular probation. The annual cost to serve an offender in DOC in FY 2013-14 was \$35,895, compared to \$3,928 for AISP and \$3,989 for FOP.

The following table summarizes recidivism data for both adults and juveniles with an intensive level of supervision, for the most recent ten fiscal years.

Probation Recidivism Rates Termination Cohorts for Fiscal Years 2004-05 Through 2013-14					
Supervision Level at Time of Termination	Fiscal Year	Pre-release Recidivism a/		Post-Release Recidivism b/	Overall Success c/
		Technical Violation	New Crime		
Juvenile Intensive Supervision Program (JISP) d/ 319	2004-05	39.1%	12.2%	1.9%	46.8%
	2005-06	43.8%	11.6%	4.6%	40.0%
	2006-07	40.7%	11.5%	4.6%	43.2%
	2007-08	40.8%	18.1%	3.8%	37.3%
	2008-09	37.7%	17.3%	1.5%	43.5%
	2009-10	34.8%	19.4%	1.7%	44.1%
	2010-11	32.1%	18.1%	2.5%	47.3%
	2011-12	34.5%	15.2%	2.3%	48.0%
	2012-13	37.3%	18.0%	3.1%	41.6%
	2013-14	37.0%	16.9%	3.8%	42.3%
	<i>319 Individuals</i>	<i>118</i>	<i>54</i>	<i>12</i>	<i>135</i>
Adult Intensive Supervision Program (AISP) d/, e/	2004-05	34.4%	13.6%	0.1%	51.9%
	2005-06	31.4%	14.7%	1.0%	52.9%
	2006-07	33.1%	10.9%	0.1%	55.9%

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Probation Recidivism Rates Termination Cohorts for Fiscal Years 2004-05 Through 2013-14					
Supervision Level at Time of Termination	Fiscal Year	Pre-release Recidivism a/		Post-Release Recidivism b/	Overall Success c/
		Technical Violation	New Crime		
	2007-08	31.5%	14.0%	0.4%	54.1%
	2008-09	22.7%	10.8%	0.5%	66.0%
	2009-10	23.9%	10.5%	0.4%	65.2%
	2010-11	22.3%	10.6%	0.7%	66.5%
	2011-12	25.0%	11.0%	0.6%	63.4%
	2012-13	27.2%	11.6%	0.5%	60.7%
	2013-14	26.6%	11.9%	0.7%	60.8%
	1,068 <i>Individuals</i>	284	127	8	649
Adult - Female Offender Program (FOP) d/	2004-05	31.6%	10.5%	0.0%	57.9%
	2005-06	37.2%	6.2%	1.7%	54.9%
	2006-07	28.0%	9.3%	1.1%	61.6%
	2007-08	26.2%	8.7%	1.2%	63.9%
	2008-09	19.9%	7.0%	1.5%	71.6%
	2009-10	21.7%	9.1%	0.7%	68.5%
	2010-11	18.7%	11.3%	1.3%	68.8%
	2011-12	25.6%	7.7%	1.3%	65.4%
	2012-13	28.3%	5.3%	0.6%	65.8%
	2013-14	28.6%	6.3%	2.9%	62.3%
	175 <i>Individuals</i>	50	11	5	109

a/ "Pre-release Recidivism" includes an adjudication or conviction for a felony or a misdemeanor, or a technical violation relating to a criminal offense, while under supervision in a criminal justice program.

b/ "Post-release Recidivism" include a filing for a felony or misdemeanor (whether or not it resulted in a conviction) within one year of termination from program placement for a criminal offense.

c/ "Overall success" reflects those offenders who did not recidivate either prior to or for one year following release. For intensive programs, this group includes offenders who were successfully terminated from intensive supervision and were transferred to regular supervision.

d/ Please note that the relatively small number of individuals participating in the intensive programs for juveniles, adults, and female adults can cause recidivism rates to differ significantly from year to year - particularly with respect to post-release recidivism.

e/ While some sex offenders on regular supervision are included in the Adult - regular data (previous table), sex offenders on intensive supervision programs are not reflected at all in the Department's recidivism report. Data related to these offenders is instead reported annually by the Department of Public Safety, Division of Criminal Justice (as required by statute).

4. **Judicial Department, Trial Courts, District Attorney Mandated Costs** – District Attorneys in each judicial district shall be responsible for allocations made by the Colorado District Attorneys' Council's Mandated Cost Committee. Any increases in this line item shall be requested and justified in writing by the Colorado District Attorneys' Council, rather than the Judicial Department, through the regular appropriation and supplemental appropriation processes. The Colorado District Attorneys' Council is requested to submit an annual report by November 1 detailing how the District Attorney Mandated Costs appropriation is spent, how it is distributed, and the steps taken to control these costs.

Comment: The Judicial Department's budget request includes the requested information that was prepared by the Colorado District Attorneys' Council (CDAC).²⁵ Staff has summarized the information below. Following that summary, staff included background information about appropriations of state funds that directly benefit District Attorney offices.

District Attorney Mandated Costs. This line item provides state funding to reimburse DAs for costs incurred for prosecution of state matters, as required by state statute. Section 16-18-101, C.R.S., states that, "The costs in criminal cases shall be paid by the state pursuant to section 13-3-104, C.R.S."²⁶, when the defendant is acquitted or when the defendant is convicted and the court determines he is unable to pay them." Pursuant to Section 18-1.3-701 (2), C.R.S., when a person is convicted of an offense or a juvenile is adjudicated, the Court shall give judgment in favor of the State, the prosecuting attorney, or the law enforcement agency and against the offender or juvenile for the amount of the costs of prosecution. Section 18-1.3-701 (2), C.R.S., specifies the types of expenditures that may be included under this provision.

Based on FY 2014-15 expenditure data provided by the CDAC, DAs' mandated costs consist of the following:

- Expert witness fees and travel expenses (\$743,242 or 32.0 percent)
- Witness fees and travel expenses (\$583,487 or 25.1 percent)
- Mailing subpoenas²⁷ (\$459,777 or 19.8 percent)
- Service of process²⁸ (\$355,912 or 15.3 percent)
- Court reporter fees for transcripts (\$181,439 or 7.8 percent)

²⁵ The CDAC is a quasi-government agency, supported by assessments charged to each district attorney member's office (through an intergovernmental agreement).

²⁶ This section states that the State "shall provide funds by annual appropriation for the operations, salaries, and other expenses of all courts of record within the state, except for county courts in the city and county of Denver and municipal courts".

²⁷ A subpoena is a writ by a government agency, most often a court, which has authority to compel testimony by a witness or production of evidence under a penalty for failure.

²⁸ Service of process is the general term for the legal document (usually a summons) by which a lawsuit is started and the court asserts its jurisdiction over the parties and the controversy.

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The following table provides a history of appropriations and actual expenditures for this line item, as well as the request for FY 2016-17.

District Attorneys' Mandated Costs								
Fiscal Year	Appropriation			Actual Expenditures				Over/ (Under) Budget
	General Fund	Cash Funds	Total	General Fund	Cash Funds	Total	Annual % Change	
2000-01	\$1,938,724	\$0	\$1,938,724	\$1,889,687	\$0	\$1,889,687		(\$49,037)
2001-02	1,938,724	0	1,938,724	1,978,963	0	1,978,963	4.7%	40,239
2002-03	2,025,199	125,000	2,150,199	1,833,410	71,117	1,904,527	-3.8%	(245,672)
2003-04	2,025,199	125,000	2,150,199	1,847,369	59,334	1,906,703	0.1%	(243,496)
2004-05	1,911,899	0	1,911,899	1,911,970	0	1,911,970	0.3%	71
2005-06	1,911,899	0	1,911,899	1,772,849	106,325	1,879,174	-1.7%	(32,725)
2006-07	1,841,899	125,000	1,966,899	1,928,795	99,090	2,027,885	7.9%	60,986
2007-08	1,837,733	125,000	1,962,733	2,092,974	130,674	2,223,648	9.7%	260,915
2008-09	2,101,052	125,000	2,226,052	2,063,785	125,000	2,188,785	-1.6%	(37,267)
2009-10	2,101,052	125,000	2,226,052	2,101,050	125,000	2,226,050	1.7%	(2)
2010-11 a/	2,005,324	125,000	2,130,324	2,005,507	125,000	2,130,507	-4.3%	183
2011-12	2,073,494	125,000	2,198,494	2,061,883	125,000	2,186,883	2.6%	(11,611)
2012-13 b/	2,389,549	140,000	2,529,549	2,164,497	140,000	2,304,497	5.4%	(225,052)
2013-14 c/	2,491,916	160,000	2,651,916	2,152,067	160,000	2,312,067	0.3%	(339,849)
2014-15 d/	2,527,153	170,000	2,697,153	2,374,178	160,865	2,535,043	9.6%	(162,110)
2015-16 e/	2,647,350	170,000	2,817,350					
2016-17 Request f/	2,420,153	170,000	2,590,153					
a/ Appropriation reflects reduction of \$17,300 pursuant to H.B. 10-1291.								
b/ The FY 2012-13 appropriation included \$265,100 to reimburse costs in the <i>Holmes</i> and <i>Sigg</i> cases; a total of \$111,993 was used to reimburse costs in these two cases and \$153,107 reverted to the General Fund.								
c/ The FY 2013-14 appropriation included \$353,500 specifically for the <i>Holmes</i> and <i>Sigg</i> cases; a total of \$146,660 was used to reimburse costs in these two cases and \$206,840 reverted to the General Fund.								
d/ The FY 2014-15 appropriation included \$300,000 specifically for the <i>Holmes</i> case; a total of \$303,820 was used to reimburse costs in this case (with \$0 reverting to the General Fund from this portion of the appropriation).								
e/ The FY 2015-16 appropriation includes \$400,000 specifically for the <i>Holmes</i> case.								
f/ The FY 2016-17 request does not include any funds for one or more extraordinary cases.								

Prior to FY 2000-01, funding for DAs' mandated costs was included within the "Mandated Costs" line item appropriation to the Judicial Department. In 1999, an ad hoc committee on mandated costs released a report recommending that responsibility for managing court costs be transferred to the entities that incur them. Thus, beginning in FY 2000-01, the General Assembly has provided a separate appropriation for DAs' mandated costs. This line item has been accompanied by a footnote or a request for information indicating that DAs in each judicial district are responsible for allocations made by an oversight committee (currently the CDAC). Any increases in the line item are to be requested and justified in writing by the CDAC, rather than the Judicial Department.

The CDAC allocates funds among the 22 judicial districts (including those districts that are not members of the CDAC) based on historical spending. However, the CDAC excludes from this initial allocation: a portion of the appropriation to cover its costs of administering the allocation (5.0 percent of the appropriation or \$134,858 in FY 2014-

15); and another amount (typically \$300,000) to cover any unanticipated district needs. District Attorneys submit information quarterly concerning costs incurred, as well as projections of annual expenditures. The CDAC has a special process for requesting additional funds above the allocated amount. In order to limit state expenditures, the CDAC has previously required DAs to continue to follow the old Chief Justice Directive 87-01, which limited expert witness fees. The CDAC has changed this policy to allow \$1,500 per expert (rather than \$1,000). Fees paid in excess of the limits established in this Directive are only reimbursed if funds remain available at the end of the fiscal year. In FY 2014-15, DAs' incurred \$94,091 above such limits.

CDAC Request for FY 2016-17. For FY 2016-17, the CDAC requests an appropriation of \$2,590,153. The request eliminates the additional funding for the Holmes case. The CDAC indicates that the Arapahoe county District Attorney's office anticipates making all mandated cost payments related to this case by the end of December 2015, and the existing \$400,000 appropriation for that case should be sufficient to cover these expenditures. When the appropriations for the Holmes case are excluded, the CDAC's request for FY 2016-17 represents a \$172,803 (7.1 percent) increase compared to the FY 2015-16 appropriation. The CDAC indicates that the request is based on actual FY 2014-15 expenditures (including those incurred for the Holmes case), plus about 3.0 percent.

Background Information – State Funding for DAs. Colorado's district attorneys' offices (DAs) are responsible for prosecuting all criminal and traffic cases filed in district and county courts. While DAs' budgets are primarily set and funded by boards of county commissioners within each respective judicial district, the General Assembly annually appropriates state funds that directly benefit DAs offices. The following table summarizes these appropriations.

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State Funding Directly Benefiting District Attorney (DA) Offices			
State Department	Line Item	Purpose	Current Appropriation 1/
Judicial	District Attorney Mandated Costs	Reimburses DA office expenses incurred in prosecution of state matters (e.g. , expert witness fees and travel expenses, mailing subpoenas, transcripts, etc.)	\$2,817,350
Law	District Attorneys' Salaries	Covers 80 percent of the statutory minimum salary for each elected DA (currently \$130,000), plus the associated PERA and Medicare costs	2,718,249
Judicial	Appropriations to several agencies for "mandated costs" 1/	Payments to reimburse DA offices for providing discoverable materials to publicly funded agencies providing legal representation	2,539,108
Corrections	Payments to District Attorneys	Payments to DA offices for costs associated with prosecuting a crime alleged to have been committed by a person in the custody of the Department of Corrections	681,102
Higher Education	Prosecution Fellowship Program	Funding to support an estimated six fellowships for recent Colorado law school graduates, allowing them to pursue careers as prosecutors in rural areas	356,496
Law	Deputy District Attorney Training	Payment to the CDAC for the provision of prosecution training, seminars, continuing education programs, and other prosecution-related services	350,000
Public Safety	Witness Protection Fund	Payments to DA offices for qualifying expenses related to security personnel, travel expenses, lodging, and other immediate witness protection needs	83,000
Subtotal: Annual, ongoing funding			9,545,305
Judicial	Action and Statewide Discovery Sharing Systems 1/	Payment to CDAC to fully support operations of the Action case management system, and to fund the development and implementation of a statewide discovery sharing system	5,300,000
Total			\$14,845,305

1/ With two exceptions, these amounts reflect the FY 2015-16 appropriation. The amount reflected for "Appropriations to several agencies for mandated costs" reflects actual expenditures in FY 2014-15. The amount reflected for "Action and Statewide Discovery Sharing System" reflects the appropriation in S.B. 14-190 for both FY 2014-15 and FY 2015-16.

- 5. Judicial Department, Probation and Related Services, Offender Treatment and Services** – The State Court Administrator's Office is requested to provide by November 1 of each year a detailed report on how this appropriation is used, including the amount spent on testing, treatment, and assessments for offenders.

Comment: The Department provided the information requested.

Background Information. In FY 2006-07, the Joint Budget Committee approved a request to combine various appropriations from the General Fund, Offender Services Cash Fund, Drug Offender Surcharge Fund, and the Sex Offender Surcharge Fund, to create a single line item entitled "Offender Treatment and Services". The purpose of this organizational change was to: (a) provide increased flexibility to local probation departments to allocate funds for treatment and services for indigent offenders or those otherwise unable to pay; and (b) reduce year-end reversions of unspent cash funds.

The portion of the Offender Treatment and Services appropriation that is designated for offenders on probation is divided among the 22 judicial districts as "block grants" based on the number of FTE and the number of probationers under supervision in each district. Each probation department then develops a local budget for each of the approved treatment and service areas. The local allocation of funds depends on the availability of treatment and services and the particular needs of the local offender population.

FY 2014-15 Expenditures

The table on the following page details actual expenditures from this line item for FY 2013-14 and FY 2014-15. Total *probation-related* expenditures in FY 2014-15 were \$1.3 million higher than in FY 2013-14. Primarily, the increased expenditures were used for substance abuse services. Other significant increases occurred in the areas of emergency housing and food, special needs services²⁹, and domestic violence treatment. The Department also spent \$580,405 for administrative expenses, including the following:

- Travel and materials expenses associated with the roll-out of several statewide evidence-based projects, including: Safety, Adult Standardized Assessment and Case Planning; Sex Offender Assessment Instrument training; Limit-Setter Intensive Supervision program (replaced AISP), and Intervention Based Appointment curriculum (\$319,293);
- Colorado Collaborative Justice Conference (\$213,112 paid from the Correctional Treatment Cash Fund); and
- Payment of licenses for assessment instruments (\$48,000).

As in past years, about two-thirds of probation-related expenditures were used for substance abuse testing and treatment (48.7 percent) and sex offender assessment, polygraphs, and treatment (17.5 percent). The remaining funds were spent for a variety of services, ranging from domestic violence treatment to language interpreter services. The Department indicates that these funds are instrumental in achieving the reductions in commitments to the Department of Corrections and the Department of Human Services' Division of Youth Corrections.

²⁹ "Special needs services" reflect expenditures on stand-alone treatment that is not part of other treatment regimens (such as substance abuse, domestic violence, or sex offender regimens). Examples of special needs treatment include anger management, parenting skills, social support (mentoring), art therapy, and day reporting.

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Offender Treatment and Services Line Item: Actual Expenditures				
Treatment or Service	FY 2013-14		FY 2014-15	
	Expenditures	% of Total	Expenditures	% of Total
Substance Abuse Treatment	\$3,875,331	25.8%	\$4,024,811	24.7%
Drug Testing Services and Supplies	2,344,506	15.6%	3,030,418	18.6%
Transfer of Persistent Drunk Driver Cash Fund moneys from DHS	<u>843,338</u>	5.6%	<u>876,222</u>	<u>5.4%</u>
Subtotal: Substance Abuse Services	7,063,175	47.0%	7,931,451	48.7%
Adult Sex Offender Assessment	1,001,576	6.7%	969,823	6.0%
Adult Sex Offender Treatment	1,042,242	6.9%	1,099,802	6.8%
Adult Sex Offender Polygraphs	414,811	2.8%	414,315	2.5%
Juvenile Sex Offender Assessment and Treatment	245,935	1.6%	283,086	1.7%
Juvenile Sex Offender Polygraphs	<u>75,890</u>	<u>0.5%</u>	<u>76,744</u>	<u>0.5%</u>
Subtotal: Sex Offender Services	2,780,454	18.5%	2,843,770	17.5%
Domestic Violence Treatment	1,000,769	6.7%	1,181,730	7.3%
Mental Health Services	683,753	4.6%	677,467	4.2%
Emergency Housing and Food	671,228	4.5%	898,414	5.5%
Transportation Assistance	435,368	2.9%	466,051	2.9%
Special Needs Services	393,976	2.6%	589,783	3.6%
Veterans Trauma Courts	351,023	2.3%	a/	n/a
Electronic Home Monitoring Services	281,632	1.9%	328,668	2.0%
Transfer to Denver County	196,684	1.3%	123,896	0.8%
Incentives for Offenders	165,163	1.1%	197,411	1.2%
Restorative Justice	131,321	0.9%	132,106	0.8%
Educational/Vocational Assistance	126,704	0.8%	116,678	0.7%
Language Interpreter Services	117,486	0.8%	154,784	1.0%
General Medical and Dental Assistance	67,393	0.4%	24,429	0.2%
Global Positioning Satellite Tracking (GPS)	0	0.0%	0	0.0%
Subtotal: Funds Allocated to/Expended by Districts	14,466,129	96.4%	15,666,638	96.2%
Offender Treatment and Services Administrative Overhead	417,910	2.8%	580,405	3.6%
Evidence-based Practices Research	117,917	0.8%	31,343	0.2%
Initiative to Build Capacity in Rural/Under served Areas	<u>11,318</u>	0.1%	<u>4,964</u>	0.0%
Total Probation Expenditures	\$15,013,274	100.0%	\$16,283,350	100.0%
Transfer to Department of Corrections for Day Reporting	14,047		25,000	
Other Transfers to Other State Agencies	<u>9,957,133</u>		<u>12,951,507</u>	
Total Expenditures	\$24,984,454		\$29,259,857	

a/ Beginning in FY 2014-15, expenditures related to veterans trauma courts are included in the relevant treatment and service categories. The Department reports that \$491,272 of the \$624,877 FY 2014-15 appropriation earmarked for this purpose was expended.

NOTE: Shaded items above were excluded from the Department's response to the Request for Information. These items are included here for purposes of providing all expenditures that are reported for the Offender Treatment and Services line item for FY 2013-14 and

Appendix D: FY 2014-15 SMART Act Annual Performance Reports and FY 2015-16 Performance Plans

Pursuant to Section 2-7-205 (1) (b), C.R.S., the following five Judicial Branch agencies are required to publish an Annual Performance Report by November 1 of each year:

- the Judicial Department (*i.e.*, state courts and probation);
- the Office of the State Public Defender;
- the Office of the Alternate Defense Counsel;
- the Office of the Child's Representative; and
- the Office of the Child Protection Ombudsman.*

These reports are to include a summary of the agency's performance plan and most recent performance evaluation. For consideration by the Joint Budget Committee in prioritizing the budget requests submitted by each respective Judicial Branch agency, the FY 2014-15 reports for the first four agencies listed above can be found at the following links:

Judicial Department

https://www.courts.state.co.us/userfiles/file/Administration/Planning_and_Analysis/SMART%20Act/Performance%20Report%20-%20November%201%2C%202015.pdf

Office of the State Public Defender

http://pdweb.coloradodefenders.us/index.php?option=com_content&view=section&layout=log&id=76&Itemid=177

Office of the Alternate Defense Counsel

<http://coloradoadc.org/site2/images/OADCUpload/fy15-16-performance-report.pdf>

Office of the Child's Representative

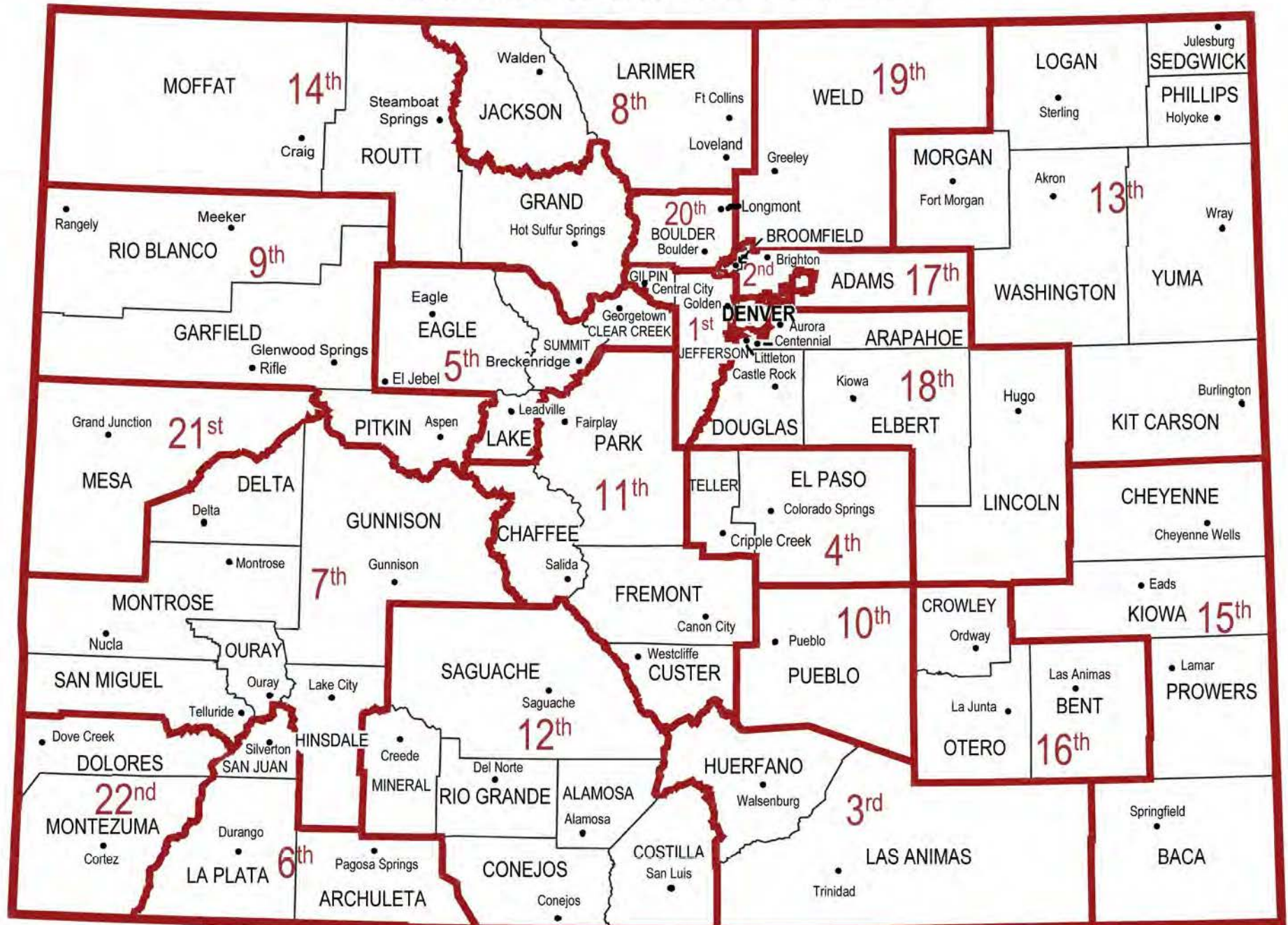
<http://www.coloradochildrep.org/wp-content/uploads/2015/11/Annual-Performance-Report-FINAL.pdf>

Pursuant to Section 2-7-204 (1) (b) and (c) and (3) (a) (I), C.R.S., the same five Judicial Branch agencies listed above are required to develop a performance plan and submit that plan to the Joint Budget Committee and appropriate Joint Committees of Reference by July 1 of each year. For consideration by the Joint Budget Committee in prioritizing the budget requests submitted by each respective Judicial Branch agency, the FY 2015-16 plans for the first four agencies listed above can be found at the following link:

<https://sites.google.com/a/state.co.us/colorado-performance-management/departments-performance-plans/colorado-judicial-branch>

*Senate Bill 15-204 established the Office of the Child Protection Ombudsman in the Judicial Department as an independent agency. The establishment of this new office is in process, and it will be fully transferred from the Department of Human Services by January 1, 2016.

Judicial Districts of Colorado



Colorado Counties and Corresponding Judicial Districts

Judicial District	County	Judicial District	County
17	Adams	13	Kit Carson
12	Alamosa	6	La Plata
18	Arapahoe	5	Lake
6	Archuleta	8	Larimer
15	Baca	3	Las Animas
16	Bent	18	Lincoln
20	Boulder	13	Logan
17	Broomfield	21	Mesa
11	Chaffee	12	Mineral
15	Cheyenne	14	Moffat
5	Clear Creek	22	Montezuma
12	Conejos	7	Montrose
12	Costilla	13	Morgan
16	Crowley	16	Otero
11	Custer	7	Ouray
7	Delta	11	Park
2	Denver	13	Phillips
22	Dolores	9	Pitkin
18	Douglas	15	Prowers
5	Eagle	10	Pueblo
4	El Paso	9	Rio Blanco
18	Elbert	12	Rio Grande
11	Fremont	14	Routt
9	Garfield	12	Saguache
1	Gilpin	6	San Juan
14	Grand	7	San Miguel
7	Gunnison	13	Sedgwick
7	Hinsdale	5	Summit
3	Huerfano	4	Teller
8	Jackson	13	Washington
1	Jefferson	19	Weld
15	Kiowa	13	Yuma

Appendix G: Court Filings by Court and Case Type

This appendix includes three tables that detail the number of new state court case filings for each fiscal year, FY 1998-99 through FY 2014-15. Table 1 details the number of filings for each of the five types of state courts. Table 2 details the number of district court filings by case type, and Table 3 details the number of county court filings by case type.

TABLE 1: NEW CASE FILINGS						
Fiscal Year	Supreme Court	Court of Appeals	District Courts	Water Courts	County Courts	Total Filings
1998-99	1,525	2,647	161,341	1,270	451,987	618,770
1999-00	1,617	2,502	159,596	1,224	446,725	611,664
2000-01	1,367	2,335	155,220	1,257	444,629	604,808
2001-02	1,368	2,673	164,237	1,550	469,993	639,821
2002-03	1,401	2,589	169,458	1,672	498,515	673,635
2003-04	1,317	2,558	177,358	1,285	514,094	696,612
2004-05	1,466	2,766	183,512	1,109	555,447	744,300
2005-06	1,393	2,748	189,415	1,303	556,136	750,995
2006-07	1,534	2,548	189,235	1,220	551,197	745,734
2007-08	1,657	2,753	187,352	1,131	562,570	755,463
2008-09	1,643	2,809	188,537	1,268	562,103	756,360
2009-10	1,518	2,890	236,671	1,215	541,591	783,885
2010-11	1,387	2,742	246,728	956	505,265	757,078
2011-12	1,538	2,711	288,867	1,076	484,371	778,563
2012-13	1,457	2,539	230,337	851	446,255	681,439
2013-14	1,465	2,458	216,073	897	430,398	651,291
2014-15	1,549	2,413	224,591	847	425,947	655,347
% of Total in FY 2014-15	0.2%	0.4%	34.3%	0.1%	65.0%	100.0%

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TABLE 2: NEW DISTRICT COURT CASE FILINGS

Fiscal Year	Foreclosures and Tax Liens	Civil (excluding foreclosures or tax liens)	Felony Criminal	Domestic Relations	Juvenile	Probate	Mental Health	Dependency & Neglect	Truancy	Total
1998-99	16,387	22,461	37,538	31,885	31,957	11,714	4,142	3,133	2,124	161,341
1999-00	16,319	22,842	35,770	32,318	30,969	11,605	4,141	3,401	2,231	159,596
2000-01	13,470	23,765	36,860	31,068	29,169	11,360	4,216	3,313	1,999	155,220
2001-02	16,865	24,484	39,147	32,166	29,950	11,655	4,229	3,552	2,189	164,237
2002-03	19,058	24,918	41,257	31,771	30,403	11,762	4,330	3,869	2,090	169,458
2003-04	26,223	25,623	42,427	30,826	29,678	11,653	4,528	4,338	2,062	177,358
2004-05	29,841	25,624	45,405	31,064	28,576	11,706	5,021	4,195	2,080	183,512
2005-06	34,552	25,994	46,501	32,481	27,248	11,525	4,653	4,136	2,325	189,415
2006-07	38,492	26,111	44,245	32,230	25,971	11,198	4,459	3,852	2,677	189,235
2007-08	35,212	28,987	40,494	33,025	26,290	11,551	4,713	3,883	3,197	187,352
2008-09	36,657	30,823	39,464	33,190	25,101	11,443	4,795	3,851	3,213	188,537
2009-10	84,932	31,414	36,993	35,624	23,849	12,189	5,159	3,568	2,943	236,671
2010-11	95,646	29,951	35,966	36,009	23,814	13,655	5,543	3,276	2,868	246,728
2011-12	140,815	28,230	35,551	35,434	22,819	14,042	6,064	3,265	2,647	288,867
2012-13	83,319	25,284	37,737	34,629	21,392	15,555	6,480	3,223	2,718	230,337
2013-14	72,568	23,757	37,966	34,907	19,685	15,203	7,072	2,971	1,944	216,073
2014-15	78,312	22,800	40,903	34,841	19,735	15,728	7,326	2,989	1,957	224,591
% of Total in FY 2014-15	34.9%	10.2%	18.2%	15.5%	8.8%	7.0%	3.3%	1.3%	0.9%	100.0%

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TABLE 3: NEW COUNTY COURT CASE FILINGS							
Fiscal Year	Traffic	Traffic Infractions	Civil	Misdemeanors	Felony Complaints	Small Claims	Total
1998-99	159,861	64,018	121,987	69,932	20,301	15,888	451,987
1999-00	140,183	70,094	127,017	73,853	20,010	15,568	446,725
2000-01	133,860	70,090	139,919	72,354	13,445	14,961	444,629
2001-02	138,439	69,800	151,905	72,973	21,285	15,591	469,993
2002-03	149,720	74,947	165,210	74,367	18,833	15,438	498,515
2003-04	159,413	82,732	165,324	74,779	17,554	14,292	514,094
2004-05	167,488	107,780	175,847	72,607	18,137	13,588	555,447
2005-06	168,155	101,386	176,244	75,703	21,268	13,380	556,136
2006-07	165,298	95,421	184,994	74,094	18,510	12,880	551,197
2007-08	162,729	96,483	198,229	74,136	18,393	12,600	562,570
2008-09	155,235	100,804	202,958	73,605	17,235	12,266	562,103
2009-10	141,493	95,557	206,954	69,695	16,795	11,097	541,591
2010-11	126,788	84,610	200,250	67,137	16,851	9,629	505,265
2011-12	121,112	75,464	193,282	70,068	15,328	9,117	484,371
2012-13	115,465	67,581	174,466	62,740	17,832	8,171	446,255
2013-14	117,389	69,515	158,526	60,585	16,794	7,589	430,398
2014-15	124,922	70,375	144,868	62,131	16,247	7,404	425,947
% of Total in FY 2014-15	29.3%	16.5%	34.0%	14.6%	3.8%	1.7%	100.0%

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Appendix H: Court Staffing Levels for FY 2015-16

FY 2015-16 Staffing Levels for District Court Judicial Officers								
Judicial District	Counties	Actual Judges (FTE)	Actual Magistrates (FTE)	Actual Water Referees (FTE)	Actual Judicial Officer Total (FTE)	Needed Staffing Level (FTE) 1/	Actual FTE Over/(Under) Need	Staffing Percentage
1	Gilpin, Jefferson	13.0	7.5	0.0	20.5	24.6	(4.1)	83.3%
2	Denver - District Court	23.0	2.5	0.0	25.5	32.8	(7.3)	77.7%
2	Denver - Juvenile Court	3.0	1.5	0.0	4.5	4.4	0.1	101.4%
2	Denver - Probate Court	1.0	0.8	0.0	1.8	2.2	(0.5)	79.5%
3	Huerfano, Las Animas	2.0	0.0	0.0	2.0	2.4	(0.4)	85.1%
4	El Paso, Teller	22.0	8.0	0.0	30.0	40.2	(10.2)	74.7%
5	Clear Creek, Eagle, Lake, Summit	6.0	0.0	0.0	6.0	5.8	0.2	103.6%
6	Archuleta, La Plata, San Juan	4.0	0.0	0.4	4.4	4.9	(0.5)	89.0%
7	Delta, Gunnison, Hinsdale, Montrose, Ouray, San Miguel	5.0	0.5	0.8	6.3	7.2	(1.0)	86.3%
8	Jackson, Larimer	8.0	4.0	0.0	12.0	13.5	(1.5)	89.0%
9	Garfield, Pitkin, Rio Blanco	5.0	0.0	0.8	5.8	5.7	0.1	101.8%
10	Pueblo	7.0	1.8	0.5	9.3	11.1	(1.8)	83.6%
11	Chaffee, Custer, Fremont, Park	4.0	1.3	0.0	5.3	6.6	(1.3)	79.9%
12	Alamosa, Conejos, Costilla, Mineral, Rio Grande, Saguache	4.0	0.0	0.3	4.3	4.7	(0.4)	91.4%
13	Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Yuma	4.0	0.5	0.0	4.5	5.6	(1.1)	80.1%
14	Grand , Moffat, Routt	3.0	0.0	0.4	3.4	3.6	(0.2)	94.7%
15	Baca, Cheyenne, Kiowa, Prowers	2.0	0.0	0.0	2.0	1.7	0.3	114.9%
16	Bent, Crowley, Otero	2.0	0.0	0.0	2.0	2.6	(0.6)	78.4%
17	Adams, Broomfield	15.0	6.0	0.0	21.0	23.6	(2.6)	89.2%
18	Arapahoe, Douglas, Elbert, Lincoln	23.0	7.4	0.0	30.4	35.2	(4.8)	86.3%
19	Weld	9.0	2.8	1.0	12.8	14.9	(2.1)	85.6%
20	Boulder	9.0	2.3	0.0	11.3	13.0	(1.7)	87.1%
21	Mesa	5.0	3.0	0.0	8.0	9.6	(1.6)	83.7%
22	Dolores, Montezuma	2.0	0.0	0.0	2.0	2.1	(0.1)	95.7%
STATEWIDE: 2015-16		181.0	49.7	4.0	234.7	277.7	(43.0)	84.5%
<i>Historical Statewide Staffing Levels:</i>								
FY 2014-15		180.0	44.8	4.2	229.0	256.6	(27.6)	89%
FY 2013-14		178.0	41.6	4.2	223.8	270.2	(46.4)	83%
FY 2012-13		176.0	41.6	4.2	221.8	267.2	(45.4)	83%
FY 2011-12		175.0	41.3	4.2	220.5	262.4	(41.8)	84%

1/ Need is based on actual case filings from 4/1/14 through 3/31/15. The Department indicates that the workload model for district court judicial officers was most recently updated in 2010.

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FY 2015-16 Staffing Levels for County Court Judicial Officers						
County	Actual Judges (FTE)	Actual Magistrates (FTE)	Actual Judicial Officer Total (FTE)	Needed Staffing Level (FTE) 1/	Actual FTE Over/(Under) Need	Staffing Percentage
Class B Counties:						
Adams	8.0	1.3	9.3	10.6	(1.4)	86.9%
Arapahoe	8.0	2.3	10.3	10.5	(0.2)	98.0%
Boulder 2/	5.0	1.0	6.0	4.3	1.7	138.2%
Broomfield	1.0	0.0	1.0	0.9	0.1	113.6%
Douglas 2/	3.0	0.6	3.6	3.4	0.2	106.5%
Eagle 2/	1.0	0.3	1.3	1.0	0.2	123.8%
El Paso 2/	10.0	3.5	13.5	12.6	0.9	107.6%
Fremont	1.0	0.0	1.0	0.8	0.3	133.3%
Jefferson 2/	9.0	1.0	10.0	9.5	0.5	105.6%
La Plata	1.0	0.0	1.0	1.0	(0.0)	98.0%
Larimer 2/	5.0	1.0	6.0	5.5	0.5	109.3%
Mesa	3.0	0.0	3.0	3.2	(0.2)	94.0%
Montrose	1.0	0.0	1.0	0.8	0.2	128.2%
Pueblo 2/	3.0	0.5	3.5	3.4	0.1	104.2%
Summit	1.0	0.0	1.0	0.7	0.3	140.8%
Weld	4.0	0.5	4.5	4.7	(0.2)	95.3%
TOTAL for Class B Counties: FY 2015-16	64.0	11.9	75.9	72.8	3.1	104.3%
<i>Historical Staffing Levels for Class B Counties:</i>						
FY 2014-15	64.0	15.0	79.0	72.9	6.1	108.4%
FY 2013-14	64.0	16.0	80.0	78.2	1.8	102.3%
FY 2012-13	64.0	16.0	80.0	83.5	(3.5)	95.8%
FY 2011-12	63.0	15.7	78.7	86.0	(7.3)	91.6%

1/ Need is based on actual case filings from 4/1/14 through 3/31/15. The Department indicates that the workload model for county court judicial officers was most recently updated in 2011.

2/ The Department indicates it continually monitors staffing levels and manages resources through the Chief Justice's statutory authority to annually determine part-time county judge salaries and the ability to reallocate magistrates and trial court staff among districts. In May 2015, six county court locations faced possible magistrate reallocation due to high staffing levels. As a result, a full-time magistrate position will be reallocated from the Boulder County Court effective July 1, 2016. A decision about where to allocate the magistrate will be made by the Chief Justice in spring 2016 based on staffing levels at that time. Four locations (Douglas, Jefferson, Larimer, and Pueblo) addressed overstaffing by reassigning magistrate FTE from their county court to their understaffed district court. Action on reallocation in Eagle County has been postponed until June 2016. The Eagle County Court believes that recent filing declines in Eagle are atypical and temporary. Filings will be reassessed in spring 2016 to test this argument.

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FY 2015-16 Staffing Levels for District and County Court Staff					
Judicial District	Counties	Actual Staffing Level (FTE) /1	Needed Staffing Level (FTE) 2/	Actual FTE Over/(Under) Need	Staffing Percentage
1	Gilpin, Jefferson	130.3	127.2	3.1	102.4%
2	Denver - District Court	118.1	121.2	(3.1)	97.4%
2	Denver - Juvenile Court	21.7	18.7	3.0	116.0%
2	Denver - Probate Court	11.8	11.9	(0.2)	98.7%
3	Huerfano, Las Animas	16.8	15.8	0.9	105.9%
4	El Paso, Teller	188.9	191.4	(2.5)	98.7%
5	Clear Creek, Eagle, Lake, Summit	42.0	37.9	4.1	110.9%
6	Archuleta, La Plata, San Juan	27.0	26.2	0.8	103.0%
7	Delta, Gunnison, Hinsdale, Montrose, Ouray, San Miguel	44.3	37.2	7.1	119.1%
8	Jackson, Larimer	71.8	72.8	(1.0)	98.6%
9	Garfield, Pitkin, Rio Blanco	38.1	33.1	5.0	115.1%
10	Pueblo	54.8	55.2	(0.4)	99.2%
11	Chaffee, Custer, Fremont, Park	33.3	33.0	0.2	100.7%
12	Alamosa, Conejos, Costilla, Mineral, Rio Grande, Saguache	31.3	29.3	1.9	106.5%
13	Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Yuma	32.8	32.0	0.7	102.2%
14	Grand , Moffat, Routt	24.8	22.4	2.4	110.6%
15	Baca, Cheyenne, Kiowa, Prowers	14.5	14.2	0.3	102.0%
16	Bent, Crowley, Otero	16.5	16.6	(0.1)	99.5%
17	Adams, Broomfield	139.0	134.4	4.6	103.4%
18	Arapahoe, Douglas, Elbert, Lincoln	193.5	193.0	0.5	100.3%
19	Weld	74.5	73.5	1.0	101.3%
20	Boulder	69.2	66.9	2.3	103.4%
21	Mesa	47.8	48.7	(1.0)	98.0%
22	Dolores, Montezuma	15.0	15.1	(0.1)	99.7%
STATEWIDE: FY 2015-16		1,457.2	1,427.5	29.7	102.1%

1/ Total staff number for FY 2015-16 includes all district court and county court case processing staff, law clerks, court reporters, administrators, and family court facilitators. This number excludes self-represented litigant coordinators.

2/ Need is based on actual case filings from 4/1/14 through 3/31/15. The Department indicates that the workload model for trial court staff is a decade old and needs to be updated for changes in law, policy, and technology. A time and motion study is currently underway to update the model. The new workload model will be completed in early 2016 and will include self-represented litigant coordinators.

State of Colorado Correctional Treatment Board



Board Co-Chairmen

David Walcher, Sheriff
Arapahoe County Sheriff's Office
County Sheriffs of Colorado

Eric Philp, Director
Division of Probation Services
Colorado Judicial Branch

Board Members

Jim Bullock, District Attorney
16th Judicial District
Colorado District Attorney's Council

Marc Condojani, Director
Community Treatment & Recovery
Office of Behavioral Health
Department of Human Services

Brian Connors, Chief Deputy
State Public Defender's Office

Deborah Duran,
Community Parole Manager
Division of Adult Parole,
Department of Corrections

Jeanne Smith, Director
Division of Criminal Justice
Department of Public Safety

FY2017 Funding Plan

The Correctional Treatment Cash Fund and its oversight board, the Correctional Treatment Board, was established with the passage of HB12-1310. This legislation consolidated three major sources of state funding for substance abuse/co-occurring assessment and treatment: The Drug Offender Surcharge Fund, SB03-318 Funding (Drug Treatment Fund) and HB12-1352 Funding. HB12-1310 restructured these funds to create and support a coordinated and collaborative effort regarding the assessment and treatment of criminal justice clients with substance use and co-occurring disorders. Board membership includes a representative from each of the four state agencies that have criminal justice programming (Judicial, Public Safety, Corrections and Human Services) as well as representatives from the County Sheriff's Association, the Public Defender's Office and the District Attorneys' Council. It is the job of the Correctional Treatment Board to ensure a fair and reasonable allocation of cash fund resources in accordance with statutory intent. Statutorily authorized uses of the money include:

- Alcohol and Drug Screening, Assessment, Evaluation, Testing, Training;
- Treatment for assessed substance abuse and co-occurring disorders;
- An annual statewide conference regarding substance abuse treatment;
- Recovery support services; and
- Administrative support for the board.

The Correctional Treatment Board is pleased to present its FY2017 Funding Plan that allocates almost \$22.0M in state resources. This plan reflects the continuing work and programmatic priorities of the Board through the various appropriations to four state agencies as outlined in this report.

Statutory Cites: 18-19-103 (3.5)(b) and 18-19-103 (5)

Fund Overview

Correctional Treatment Cash Fund Overview

Money in the Correctional Treatment Cash Fund is targeted for only those criminal justice clients with substance-abuse and/or co-occurring behavioral health disorders. All funding is appropriated into the Judicial Department's budget where it is then re-appropriated to the other three state agencies according to the funding plan as developed by the Correctional Treatment Board. Beginning in FY2015, the Board separated out administrative and overhead funding that is housed in the Judicial Branch budget, but isn't specific to Judicial programming. These costs include cash fund indirect costs, conference and board staff funding and the overhead amount that funds research/data collection and one-time projects. The chart below reflects the historical funding allocation across the four agencies.

Summary of Annual Appropriations					
	FY2013	FY2014	FY2015	FY2016	FY2017
Corrections	3,002,227	3,002,227	3,457,227	3,457,227	3,457,227
Human Services	3,090,516	4,290,156	5,071,156	6,621,156	6,621,156
Public Safety	2,666,766	2,916,766	5,301,766	5,305,084	5,299,574
Judicial	6,504,568	6,532,984	5,505,078	5,505,078	5,505,078
Non-Agency Specific	0	0	906,906	899,045	854,257
Total	15,264,077	16,742,133	20,242,133	21,787,590	21,737,292
Change over prior year		1,478,056	3,500,000	1,545,457	(50,298)

Judicial Branch (including Non-Agency Specific):

The Judicial Branch uses its correctional treatment resources for substance use testing and mental health/substance abuse treatment for all probation clients as well as outpatient treatment and recovery support for the state's problem-solving court clients. An adult diversion program was created through the passage of HB13-1156 and in FY2015, the Board established a funding stream to help support outpatient treatment for this program. The adult diversion program is managed on a cost-reimbursement basis with counties whose diversion programs meet state guidelines. Outpatient treatment funds for probation and problem-solving courts are allocated to all of the probation and problem-solving courts within the 22 judicial districts and are managed locally. Aggregated expenses are tracked and monitored centrally at the State Court Administrator's Office and reported on quarterly.

Department of Public Safety, Division of Criminal Justice (DCJ):

DCJ receives funding to help cover the cost of specialized intensive residential treatment and therapeutic community beds; to pay for out-patient treatment vouchers for clients in community corrections facilities; and to fund 1.0 research/training FTE within the Division of Criminal Justice. Funds are also used to support classroom training costs for substance abuse and risk/need assessments for probation, parole, TASC, community corrections, and prison staff. Residential and out-patient treatment funds are allocated to local community corrections boards across the state and managed by the boards for treatment of community corrections clients. Each board must report quarterly on spending levels.

Fund Overview

Department of Human Services, Office of Behavioral Health (OBH):

OBH uses its funding for three main programs and services. The Jail-Based Behavioral Services (JBBS) program provides substance-abuse and mental health services for clients in county jails. Funds are "granted" to local Sheriff's offices, managed locally and dispersed via contract agreements with local treatment providers. For FY2016, HB15-1367 was enacted, which transferred \$1.550M from the marijuana cash fund into the correctional treatment cash fund specifically for use in the JBBS program. Each JBBS program reports quarterly to the statewide program manager at OBH. OBH also uses its Correctional Treatment funds to support outpatient treatment services which are managed through contracts with Managed Service Organizations (MSO), and for the Short-Term Intensive Residential Remediation Treatment (STIRRT) program, which is a two-week residential program with continuing care for 8+ months once clients complete the in-patient portion of treatment.

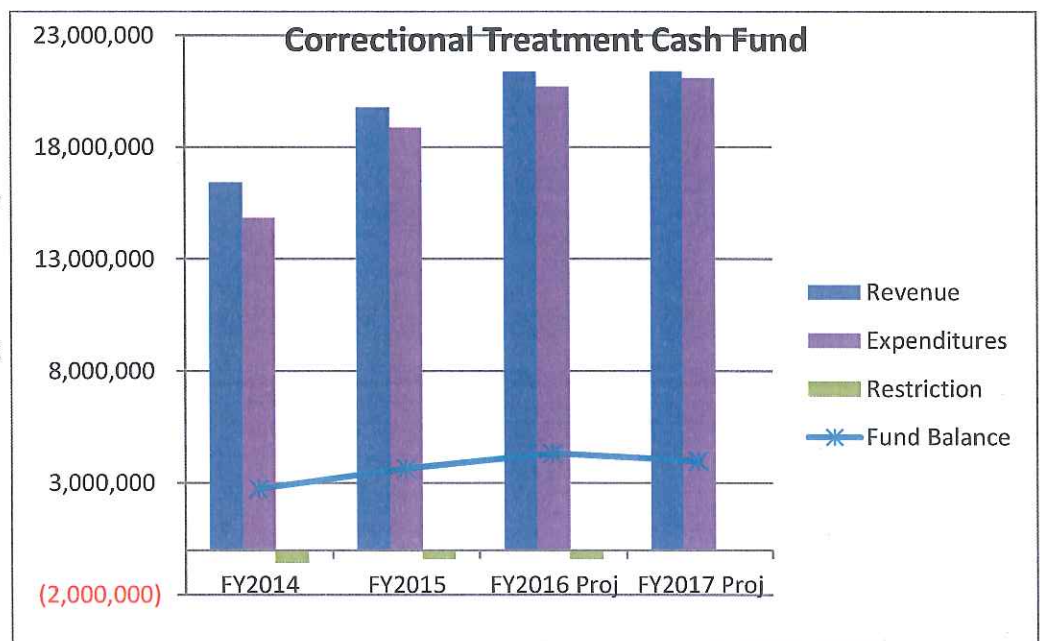
Department of Corrections (DOC):

DOC uses its correctional treatment funds to support case management, substance use testing and outpatient treatment for parole clients. This is done through a contract with Treatment Alternatives for Safer Community (TASC), which is an outside organization that provides these services to parolees with substance-abuse and/or co-occurring disorders. TASC manages the funds according to contract stipulations and reports to DOC monthly.

Correctional Treatment Cash Fund Revenue

The Correctional Treatment Cash Fund (CTCF) receives general fund money, direct cash revenue from the drug offender surcharge, a surcharge assessed on offenders convicted of drug crimes, and as of FY2016, a transfer of funds from the Marijuana Cash Fund. These funds are annually appropriated to the Judicial Branch, transferred or deposited into the cash fund, and managed by the Correctional Treatment Board. Cash revenue from the Drug Offender surcharge has historically not been sufficient to meet long bill spending authority, so the Board has implemented spending restrictions to ensure the long-term health of the cash fund.

Revenue is continuing to increase and the fund balance is healthy, so the Board will be discussing the possible reduction or elimination of spending restrictions beginning in FY2017.



FY2015 Spending

Cash Fund Expenditures

In FY2015, a total of \$18.8M was spent as outlined in the chart below. In addition to the surplus in the Board overhead funds, both the Departments of Public Safety (DPS) and Human Services (CDHS) reflect budget surpluses. FY15 presented challenges simply in the ability to get timely information from CORE. As such, programs spent conservatively in order to avoid overspending. Combined with that, both departments received FY15 funding increases to expand programming for JBBS, Probation IRT beds and outpatient treatment (see chart on page 2.) Implementing expanded programming takes time and it is not uncommon for first-year surpluses to occur. This is particularly true for programs dependent on field-level referrals as the programming must get developed, communicated and then become operational. The FY15 surpluses are not surprising and the Board is committed to continuing current funding levels. The Board will be discussing the use of outpatient treatment funds for expanded recovery support services, particularly targeting community corrections clients.

Regarding the other OBH budget surpluses, initial analysis indicates they have resulted from increased access to Affordable Care Act (ACA) Medicaid funds. This is good news for the Board as maximizing

Correctional Treatment 2015 Spending - By Agency and Long Bill Line*				
	Appropriation	Restriction	Spent	Difference
DOC				
Drug & Alcohol Tx Subprogram	1,345,127		1,345,127	0
Parole Subprogram	2,112,100		2,112,100	0
	3,457,227	0	3,457,227	0
DHS				
<u>Substance Use Treatment and Prevention</u>				
Treatment & Detox Contracts	1,064,688	(102,287)	899,623	62,778
Short-Term Intensive Residential Remediation & Tx	427,946		398,984	28,962
<u>Integrated Behavioral Health Services</u>				
Jail-Based Behavioral Health	3,578,522		3,448,112	130,410
	5,071,156	(102,287)	4,746,719	222,150
DPS				
<u>Administration</u>				
Personal Services	84,803		84,803	
Pots	19,194		14,352	4,842
<u>Community Corrections</u>				
Community Corrections Placement	2,643,869		2,310,274	333,595
Trtmtn. For Subs Abuse and Co-occurring Disorders	2,553,900	(106,939)	2,313,132	133,829
	5,301,766	(106,939)	4,722,561	472,266
JUDICIAL				
<u>Probation & Related Services</u>				
Probation & PSC Treatment	5,428,078	(65,147)	5,384,962	(22,031)
Conference	220,000	(6,878)	213,122	
Board Overhead	347,341		27,483	319,858
Total Offender Tx & Services	5,995,419	(72,025)	5,625,567	297,827
<u>Central Programs</u>				
Pots	26,494	(12,884)	13,610	
Adult Pre-Trial Diversion	77,000	(77,000)	0	
<u>Administration</u>				
Personal Services	94,323	(18,865)	94,323	(18,865)
Indirects	218,748		218,748	0
	6,411,984	(180,774)	5,952,248	278,962
GRAND TOTAL	20,242,133	(390,000)	18,878,755	973,378

*Figures in this chart were pulled from CORE on 10/16/15

FY2016 Appropriation

ACA funds is a top priority. It will be establishing an ACA sub-committee to work exclusively on ACA issues, track budget impacts and ensure Medicaid funds are being maximized.

The cash fund ended the fiscal year with a 24.6% fund balance due to increasing revenue collections combined with the program surpluses. This cash fund health is being discussed and options for management of the fund balance include a reduction or elimination of spending restrictions, an increase in the use of funds for system-wide projects, and the possibility of supporting local board pilot initiatives. The Board is committed to ensuring fund resources are spent in support of initiatives that benefit the criminal justice system as a whole in both rural and urban areas of the state.

FY2016 Appropriation

The Correctional Treatment Board allocated just over \$20.2M for FY2016. Additionally, HB15-1367 provided \$1.550M specific for jail-based treatment. The chart below outlines the funding by agency and long bill line for FY2016.

Correctional Treatment 2015 and 2016 Appropriation -- By Agency and Long Bill Line			
	FY2015 Approp.	FY2016 Approp.	Difference
DOC			
Drug & Alcohol Tx Subprogram	1,345,127	1,345,127	0
Parole Subprogram	2,112,100	2,112,100	0
	3,457,227	3,457,227	0
DHS			
<u>Substance Use Treatment and Prevention</u>			
Treatment & Detox Contracts	1,064,688	1,064,688	0
Short-Term Intensive Residential Remediation & Tx	427,946	427,946	0
<u>Integrated Behavioral Health Services</u>			
Jail-Based Behavioral Health	3,578,522	5,128,522	1,550,000
	5,071,156	6,621,156	1,550,000
DPS			
<u>Administration</u>			
Personal Services	84,803	87,852	3,049
Pots	19,194	19,463	269
<u>Community Corrections</u>			
Community Corrections Placement	2,643,869	2,643,869	0
Trtmtn. For Subs Abuse and Co-occurring Disorders	2,553,900	2,553,900	0
	5,301,766	5,305,084	3,318
JUDICIAL			
<u>Probation & Related Services</u>			
Offender Treatment & Services	5,995,419	5,990,268	(5,151)
<u>Central Programs</u>			
Pots	26,494	16,590	(9,904)
Adult Pre-Trial Diversion	77,000	77,000	0
<u>Administration</u>			
Personal Services	94,323	96,156	1,833
Indirects	218,748	224,109	5,361
	6,411,984	6,404,123	(7,861)
GRAND TOTAL	20,242,133	21,787,590	1,545,457

FY2017 Funding Allocation

FY2017 Planning

The Correctional Treatment Board met in September for an all-day planning retreat where it was determined that its ultimate goal was to provide funding in a way that would promote the best outcomes with regard to long-term behavior change for clients in the criminal justice system. The Board strongly believes that following the principles of Risk-Need-Responsivity will best enable such behavior change in its clients and wants to ensure that allocated funding supports these principles.

Risk Principle: Supervision and treatment levels should match the client's level of criminal risk. This is precipitated on the consistent use of validated risk and needs assessment tools to inform the case planning and decision making process.

Needs Principle: Treatment services should target a client's criminogenic needs—dynamic risk factors that most drive criminal behavior.

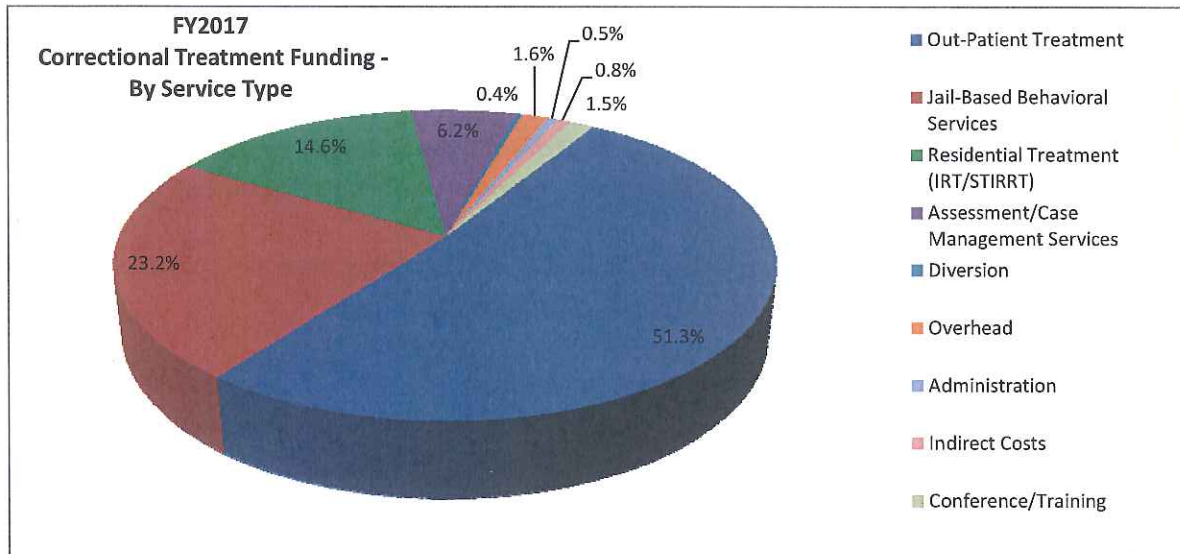
Responsivity Principle: Treatment interventions should employ the use of cognitive social learning strategies and be targeted toward the client's specific learning style, motivation and strengths.

Current work of the Board that supports the Risk-Need-Responsivity Principles include:

- The Board is using overhead funds to validate the newly designed Colorado Assessment Match (CAM); an algorithm developed by a Board sub-committee for use across all the criminal justice agencies to consistently and accurately assess criminal risk. The assessed risk will then guide case planning to match treatment levels to risk. The expected completion date is spring 2016. (Risk and Needs Principles)
- The Board established a sub-committee to design and develop a Funding Matrix tool that outlines "ideal" processes and practices for assessment, testing, case planning, interaction with treatment providers and more. This tool will help the board assess current state-funded practices with regard to adherence to the RNR principles and will help guide future funding decisions. The Board is scheduled to review the Matrix with the sub-committee at its November meeting. (Risk, Needs, Responsivity Principles)
- The Board has committed overhead funds to provide a grant match supporting efforts at developing a Colorado justice and health electronic information exchange. Such an exchange will not only promote better communication across criminal justice agencies, but will support improved communication with treatment /mental health providers, jails, and will also help alleviate medication interruptions. All of this will provide more consistency and stability in management of criminal justice clients, which will result in better outcomes. (Needs and Responsivity Principles)
- The Board co-sponsors an annual Collaborative Justice conference that educates case managers, treatment providers, and criminal justice professionals on the latest research and practices that are proven to effectively support clients in the criminal justice system. (Risk, Needs, Responsivity Principles)

FY2017 Funding Allocation

- The Board continues to fund a wide-range of services across all agencies, including: all levels of out-patient treatment, different levels of in-patient treatment, treatment in jails, adult diversion and services that support the continuity of care when clients move back into their communities. (Risk, Needs, Responsivity Principles)



Work that the Board has identified over the next year that will build on its current activity and further position it to make better funding decisions include:

- The Board is discussing funding a data-based project to look at factors that impact client success in Colorado. Data will be gathered and analyzed as to specific trends/services that contribute to individual client success. This information will help the Board determine if funding changes need to be implemented to ensure that all services impacting success are appropriately supported.
- A sub-committee will be established to address the Affordable Care Act and work to ensure that the criminal justice system is maximizing the use of federal funds. The Board will ensure that the work of the sub-committee will be done in conjunction with other work currently being done on the Affordable Care Act.

FY2017 Funding Requests

For the FY2017 budget, the Board was presented with two program funding request changes and had to discuss the use of the continuing \$1.550M from the Marijuana Cash Fund as it was only stipulated for the JBBS program in FY2016.

- The first funding request was from the State's Problem-Solving Courts for \$1.2M for outpatient treatment. Over the past two years, the Judicial Branch separately tracked treatment spending for the specialty courts and based on this information, it was determined that the Correctional Treatment allocation for specialty courts was not sufficient. Therefore, the Problem-Solving Court program presented the Board with an increased request for FY2017.

FY2017 Funding Allocation

- The second request was for \$95,000 from the STIRRT program within the Office of Behavioral Health. STIRRT is a 9-month treatment program with 2 weeks of in-patient treatment followed by 8+ months of continuing outpatient treatment. The STIRRT Advisory Committee requested the increase to implement program changes that will bring operations in line with current research and best practices and positively impact outcomes. The Advisory Committee is committed to this substantial undertaking, which includes the following:
 - Expanding some of the residential treatment from 2 weeks to 3 weeks in length;
 - Having all three residential facilities provide psychiatric evaluations and cover psychotropic medications,
 - Increasing the focus on transition planning and case management capability;
 - Implementing better coordination with referral sources;
 - Providing detox services and/or respite bed capability; and
 - Ensuring Medicaid funding is being maximized;
 - Implementing on-going training for clinicians and case managers/supervisors.

The Correctional Treatment Board discussed these funding issues at its September retreat. Given that the funding matrix, which will assess current program practices/policies, has not been finalized, nor has the planned client success data-based project been started, the Board felt it was not in a position to make significant changes to existing program funding. Therefore, the Board determined that it would maintain current funding for the JBBS program, to include the \$1.550 from the Marijuana Cash Fund, less \$95,000 that would be shifted to support STIRRT programming changes. Given that JBBS programming is highly desired and local sheriff's offices are expressing continued and increasing interest, the Board strongly supports continuing its current level of funding for treatment in jails.

The Board also strongly supports the proposed changes to the STIRRT program because they are based on current research and best practices, which support the principles of RNR. The Board sees potential for better outcomes from the proposed STIRRT changes, which is why it chose to shift funding from the JBBS program. The JBBS program has received significant funding increases over the past two years and programming is still being developed. The Board determined that a less than 2% decrease in JBBS funding levels could be absorbed into ongoing program development with minimal negative impact. The Board will be working with the STIRRT program manager to follow implementation and track outcomes resulting from the above-outlined changes.

To address the outpatient treatment need for problem-solving courts, the Board decided that it would no longer allocate specific amounts to the probation and problem-solving court functions in Judicial. Instead, it will allocate a lump sum and let the Branch determine the split between its programs. The Branch has historically managed its outpatient treatment needs internally and is currently seeking solutions that will address its growing need for outpatient treatment funding.

The only other significant change for FY2017 is a decrease in the assessed indirect cost figure. This is provided by the Judicial Branch budget office and has resulted from a change in the federal indirect cost rate calculation. Questions specific to this adjustment should be directed to the Judicial Branch budget office.

FY2017 Funding Allocation

The chart below outlines the Board's funding decisions as it impacts the FY2017 long bill for each state agency.

Correctional Treatment 2016 and 2017 Appropriation -- By Agency and Long Bill Line			
	FY2016 Approp.	FY2017 Request	Difference
DOC			
Drug & Alcohol Tx Subprogram	1,345,127	1,345,127	0
Parole Subprogram	2,112,100	2,112,100	0
	3,457,227	3,457,227	0
DHS			
<u>Substance Use Treatment and Prevention</u>			
Treatment & Detox Contracts	1,064,688	1,064,688	0
Short-Term Intensive Residential Remediation & Tx	427,946	522,946	95,000
<u>Integrated Behavioral Health Services</u>			
Jail-Based Behavioral Health	3,578,522	5,033,522	1,455,000
	5,071,156	6,621,156	1,550,000
DPS			
<u>Administration</u>			
Personal Services/Operating	87,852	89,609	1,757
Pots	19,463	12,196	(7,267)
<u>Community Corrections</u>			
Community Corrections Placement	2,643,869	2,643,869	0
Trtmtn. For Subs Abuse and Co-occurring Disorders	2,553,900	2,553,900	0
	5,305,084	5,299,574	(5,510)
JUDICIAL			
<u>Probation & Related Services</u>			
Offender Treatment & Services	5,990,268	5,990,268	0
<u>Central Programs</u>			
Pots	16,590	13,826	(2,764)
Adult Pre-Trial Diversion	77,000	77,000	0
<u>Administration</u>			
Personal Services	96,156	97,116	960
Indirects	224,109	181,125	(42,984)
	6,404,123	6,359,335	(44,788)
GRAND TOTAL	20,237,590	21,737,292	1,499,702
Cash Funds	5,037,590	4,987,292	(50,298)
Reappropriated Funds	15,200,000	16,750,000	1,550,000

Conclusion

Next Steps

The Correctional Treatment Board is pleased with its FY2017 funding allocation as it supports a wide variety of statutorily-authorized programs and services that meet the needs of criminal justice clients across all of the communities within the State of Colorado. Moving forward, the Board is eager to act on the work it did at its planning retreat in September and wants to complete the projects currently in progress and move forward with those that are planned for the next year.

All of this work is designed to continue the Board's support of existing state criminal justice programming while developing tools or gaining information that will help the Board assess current funding practices, maximize federal Medicaid funds and appropriately place future funding so that it assists in meeting program needs as they pursue the principles of risk-need-responsivity. The Board is actively working to unite the experience and knowledge of all its members to make productive impacts on the processes and practices within each criminal justice agency as well as with the treatment community.

The Correctional Treatment Board is proud of the work it has done to-date and is confident that its efforts over the coming year will continue to contribute to successful client outcomes and improved public safety.

Successes To-Date:

- Developed jail-based treatment in 44 of the 64 counties, covering areas where 95% of the State's population lives.
 - Developed IRT beds as a condition of probation to meet this growing service need.
- Established funding to support treatment in adult diversion programs across the state.
 - Increased funding to support TASC/Parole services in rural areas.
- Continued support of an annual conference that has seen increased attendance and an inclusion of the treatment community.
- Successful legislative changes to get language consistent with programmatic needs.
 - Engaged local treatment boards across the state on their various needs.
- Providing a grant match to support a justice and health electronic information exchange.
 - Validation study of new treatment matching algorithm (CAM) in progress.
 - Funding Matrix tool currently in development.
- Working to maximize Medicaid for all qualified criminal justice clients in Colorado.

NOTE: This document was prepared by the Colorado District Attorneys' Council.

Xerox/PARC Deliverables

Ref. No.	Task Order*	Deliverables and Milestones*	Date of Initiation*	Delivery Date*
1.	Assessment Phase	<ul style="list-style-type: none"> • Pilot assessment completed (District 18); • Milestone: Draft Assessment Report delivered • Deliverable: Assessment field work completed and Assessment report delivered, including initial version of Functional Specifications and Requirements; 	3/27/2015	8/21/2015 Delivered 8/21/2015
2.	Development Task Order 1 - Initial RMS Data Extraction Tool	<ul style="list-style-type: none"> • Velocity review • Milestone: demonstrate the status monitoring functionality of the services running on the local e-discover server (LEDS). • Deliverable: Initial RMS Data Extraction Tool release 	8/10/2015	10/28/2015 Delivered 10/9/2015
3.	Development Task Order 2 - Initial Core System and Central Repository	<ul style="list-style-type: none"> • Velocity review • Milestone: demonstrate processing and displaying of the status messaging created and transmitted from the services running on the local e-discover server (LEDS) • Deliverable: Initial Core System & Central Repository release • Computer cluster equipment purchased 	10/02/2015	1/16/2016
4.	Development Task Order 3 - Initial Interface to CDAC ACTION System	<ul style="list-style-type: none"> • Velocity review • Milestone: demonstrate sending and receiving structured communications between ACTION and the core central system. • Deliverable: Initial Interface to CDAC ACTION system release 	11/02/2015	4/28/2016
5.	Development Task Order 4 - Initial	<ul style="list-style-type: none"> • Velocity review • Milestone: demonstrate the page layout of the web pages required to 	1/1/2016	3/15/2016

	Supplemental Case Selection Screens	support the supplemental case entry. <ul style="list-style-type: none"> • Deliverable: Initial Supplemental Case Selection Screens release 		
6.	Development Task Order 5 - Additional and Priority Backlog Features	<ul style="list-style-type: none"> • Velocity review • Milestone: TBD • Deliverable: Additional features release 	4/29/2016	8/18/2016
7.	System as a Whole – Completion of Development Phase	<ul style="list-style-type: none"> • Operational System 		8/18/2016
8.	Deployment	<ul style="list-style-type: none"> • Deployment for mutually agreed upon** agencies of District 18 • Testing and Acceptance for mutually agreed upon** agencies of District 18 • Completion of training for District 18 • Completion of scheduled classroom and Webex sessions • Deployment for mutually-agreed upon** agencies for balance of state, following an agreed-upon order of districts • Testing and Acceptance Deployment for mutually-agreed upon** agencies in all other state districts 	5/16/2016	6/1/2017
9.	Implementation Date – Completion of Deployment Phase	System made available to all participating District Attorneys and Law Enforcement Agencies		6/1/2017

* Subject to change upon mutual, written agreement of the parties through execution of Task Orders. Delivery Date assumes CDAC authorizes the Task Order at the Date of Initiation.

**In the event an LEA opts to not participate, then such LEA is excluded from the list of agreed to agencies.

CDAC major enhancement tasks

This list does not include support, maintenance or smaller enhancements.

Ref. No.	Description	Implementation Date
1	DUI enhancement, Traffic data import from Judicial	08/2014
2	Enhancements to Work Flow, Noting, Prosecutor Docket tools, Defense Attorney maintenance, eFiling with Judicial	11/2014
3	ACTION Scan (version 1.0)	12/2014
4	Enhancements to eFiling with Judicial, Work Flow, Prosecutor Docket tools, Filing Cabinet	02/2015
5	Enhancements to eFiling with Judicial, Work Flow, Division Docket tool, Filing Cabinet	04/2015
6	Enhancements to eFiling with Judicial, eDiscovery zip packets, Filing Cabinet, Work Flow	06/2015
7	ACTION Scan (version 2.0)	07/2015
8	Enhancements to Traffic Case entry, eFiling with Judicial, Filing Cabinet, eDiscovery Bate Stamping	08/2015
9	Convert District 4 to the Filing Cabinet from their existing Document Management System	01/2016
10	ACTION Scan (version 3.0)	01/2016
11	Web Portal Registration system	01/2016
12	Web Portal Ordering system	02/2016
13	eDiscovery available for local pickup/physical media	02/2016
14	Convert District 17 to the Filing Cabinet from their existing Document Management System	02/2016
15	Convert District 18 to the Filing Cabinet from their existing Document Management System	02/2016
16	Work Queue for scanned images/documents	03/2016
17	Co-Defendant case processing	04/2016
18	CORE to ACTION Interface	05/2016
19	Server based backend OCR processing	06/2016
20	Document searching	06/2016
21	New Document Generation System	07/2016
22	Convert District 8 to the Filing Cabinet from their existing Document Management System	12/2016



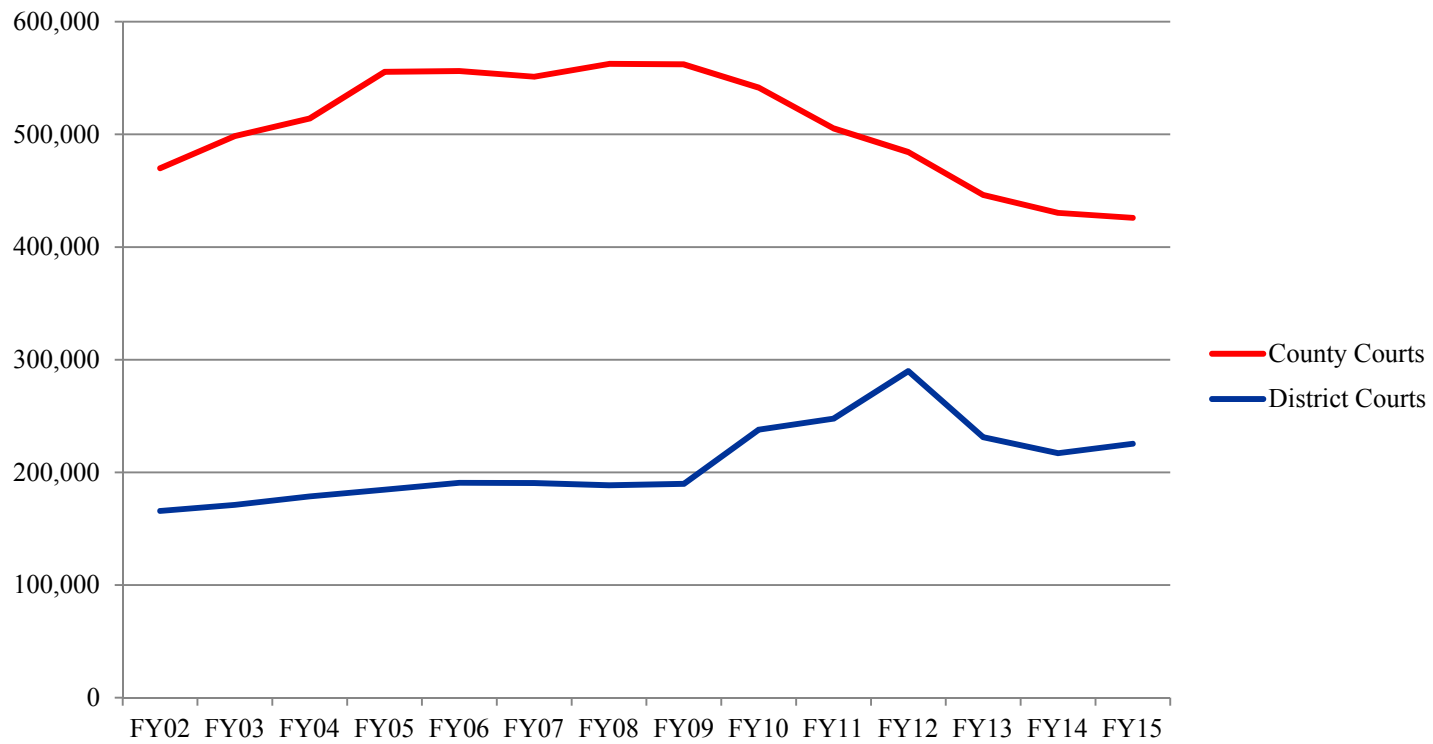
JBC Staff FY 2016-17 Budget Briefing Judicial Department

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Carolyn Kampman, JBC Staff

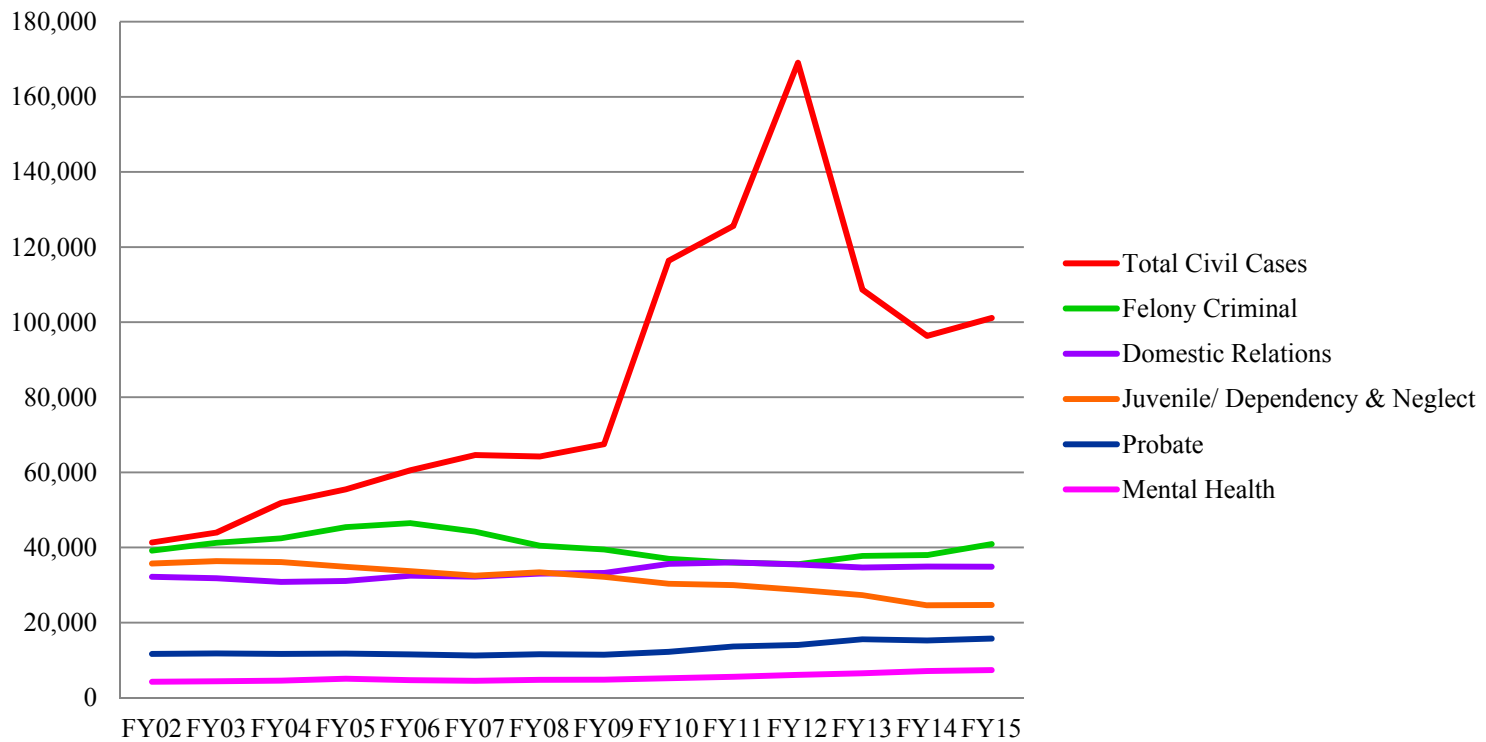
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TRIAL COURT CASE FILINGS FY 2001-02 through FY 2014-15



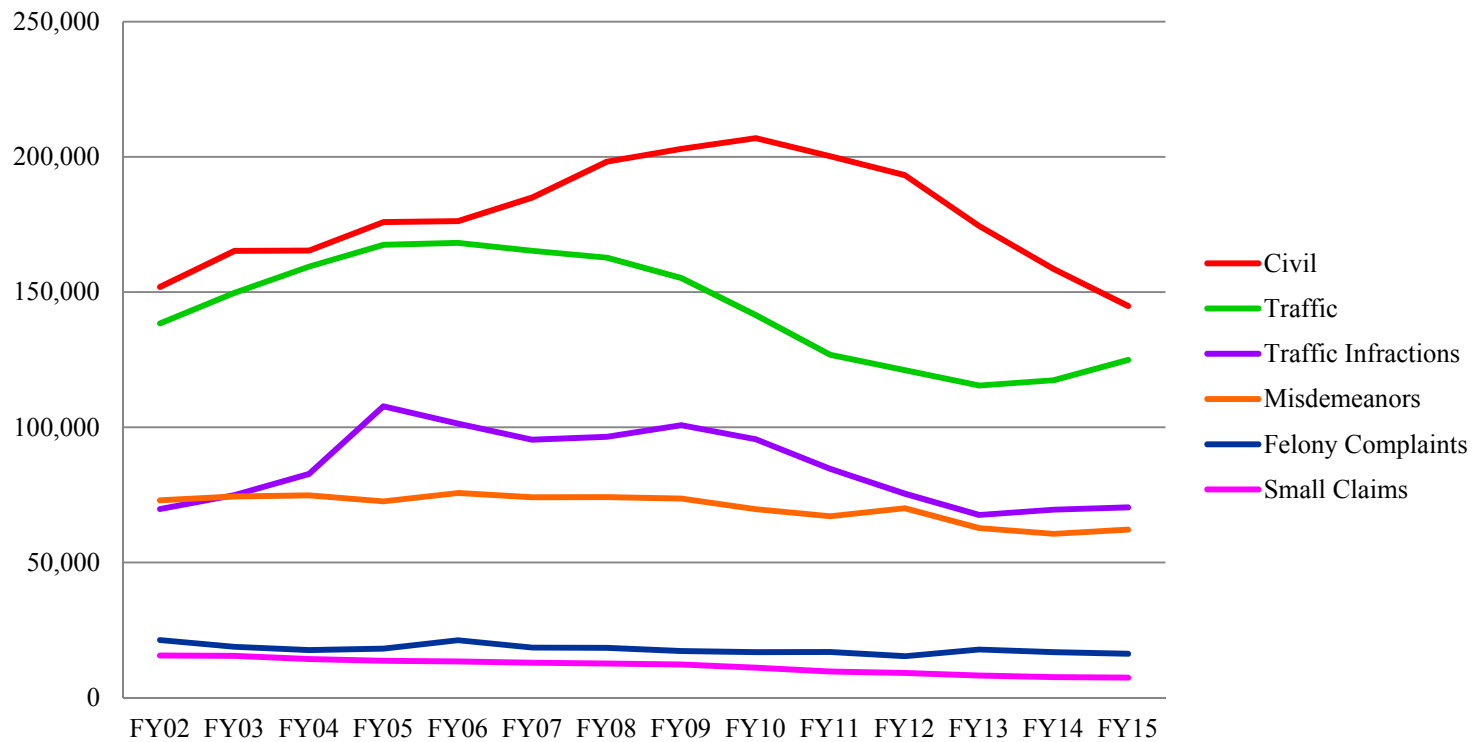
FY 2015-16 Staffing Levels for DISTRICT AND COUNTY COURT STAFF					
Judicial District	Counties	Actual Staffing Level (FTE) /1	Needed Staffing Level (FTE) 2/	Actual FTE Over/(Under) Need	Staffing Percentage
1	Gilpin, Jefferson	130.3	127.2	3.1	102.4%
2	Denver - District Court	118.1	121.2	(3.1)	97.4%
2	Denver - Juvenile Court	21.7	18.7	3.0	116.0%
2	Denver - Probate Court	11.8	11.9	(0.2)	98.7%
3	Huerfano, Las Animas	16.8	15.8	0.9	105.9%
4	El Paso, Teller	188.9	191.4	(2.5)	98.7%
5	Clear Creek, Eagle, Lake, Summit	42.0	37.9	4.1	110.9%
6	Archuleta, La Plata, San Juan	27.0	26.2	0.8	103.0%
7	Delta, Gunnison, Hinsdale, Montrose, Ouray, San Miguel	44.3	37.2	7.1	119.1%
8	Jackson, Larimer	71.8	72.8	(1.0)	98.6%
9	Garfield, Pitkin, Rio Blanco	38.1	33.1	5.0	115.1%
10	Pueblo	54.8	55.2	(0.4)	99.2%
11	Chaffee, Custer, Fremont, Park	33.3	33.0	0.2	100.7%
12	Alamosa, Conejos, Costilla, Mineral, Rio Grande, Saguache	31.3	29.3	1.9	106.5%
13	Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Yuma	32.8	32.0	0.7	102.2%
14	Grand , Moffat, Routt	24.8	22.4	2.4	110.6%
15	Baca, Cheyenne, Kiowa, Prowers	14.5	14.2	0.3	102.0%
16	Bent, Crowley, Otero	16.5	16.6	(0.1)	99.5%
17	Adams, Broomfield	139.0	134.4	4.6	103.4%
18	Arapahoe, Douglas, Elbert, Lincoln	193.5	193.0	0.5	100.3%
19	Weld	74.5	73.5	1.0	101.3%
20	Boulder	69.2	66.9	2.3	103.4%
21	Mesa	47.8	48.7	(1.0)	98.0%
22	Dolores, Montezuma	15.0	15.1	(0.1)	99.7%
STATEWIDE: FY 2015-16		1,457.2	1,427.5	29.7	102.1%

DISTRICT COURT FILINGS BY CASE TYPE FY 2001-02 to FY 2014-15



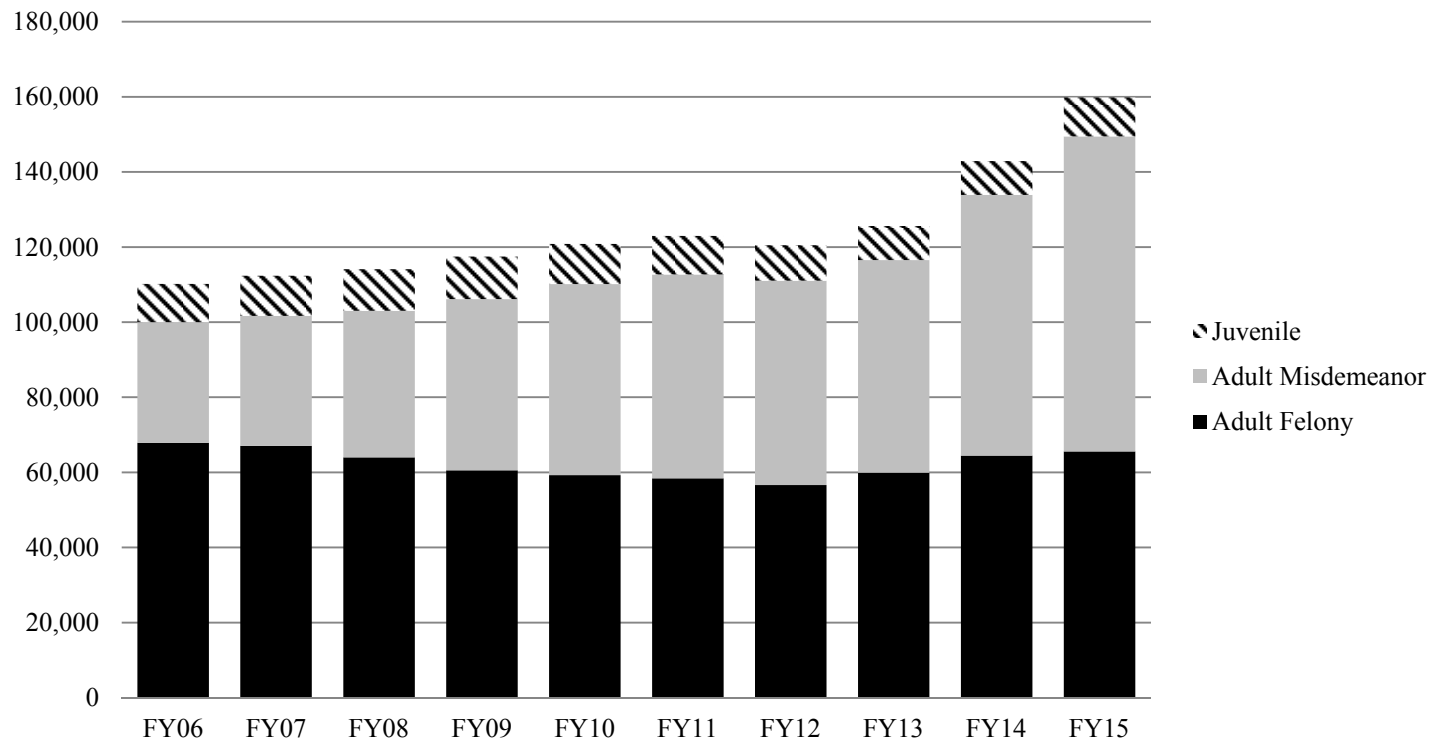
FY 2015-16 Staffing Levels for DISTRICT COURT JUDICIAL OFFICERS								
Judicial District	Counties	Actual Judges (FTE)	Actual Magistrates (FTE)	Actual Water Referees (FTE)	Actual Judicial Officer Total (FTE)	Needed Staffing Level (FTE) 1/	Actual FTE Over/(Under) Need	Staffing Percentage
1	Gilpin, Jefferson	13.0	7.5	0.0	20.5	24.6	(4.1)	83.3%
2	Denver - District Court	23.0	2.5	0.0	25.5	32.8	(7.3)	77.7%
2	Denver - Juvenile Court	3.0	1.5	0.0	4.5	4.4	0.1	101.4%
2	Denver - Probate Court	1.0	0.8	0.0	1.8	2.2	(0.5)	79.5%
3	Huerfano, Las Animas	2.0	0.0	0.0	2.0	2.4	(0.4)	85.1%
4	El Paso, Teller	22.0	8.0	0.0	30.0	40.2	(10.2)	74.7%
5	Clear Creek, Eagle, Lake, Summit	6.0	0.0	0.0	6.0	5.8	0.2	103.6%
6	Archuleta, La Plata, San Juan	4.0	0.0	0.4	4.4	4.9	(0.5)	89.0%
7	Delta, Gunnison, Hinsdale, Montrose, Ouray, San Miguel	5.0	0.5	0.8	6.3	7.2	(1.0)	86.3%
8	Jackson, Larimer	8.0	4.0	0.0	12.0	13.5	(1.5)	89.0%
9	Garfield, Pitkin, Rio Blanco	5.0	0.0	0.8	5.8	5.7	0.1	101.8%
10	Pueblo	7.0	1.8	0.5	9.3	11.1	(1.8)	83.6%
11	Chaffee, Custer, Fremont, Park	4.0	1.3	0.0	5.3	6.6	(1.3)	79.9%
12	Alamosa, Conejos, Costilla, Mineral, Rio Grande, Saguache	4.0	0.0	0.3	4.3	4.7	(0.4)	91.4%
13	Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Yuma	4.0	0.5	0.0	4.5	5.6	(1.1)	80.1%
14	Grand , Moffat, Routt	3.0	0.0	0.4	3.4	3.6	(0.2)	94.7%
15	Baca, Cheyenne, Kiowa, Prowers	2.0	0.0	0.0	2.0	1.7	0.3	114.9%
16	Bent, Crowley, Otero	2.0	0.0	0.0	2.0	2.6	(0.6)	78.4%
17	Adams, Broomfield	15.0	6.0	0.0	21.0	23.6	(2.6)	89.2%
18	Arapahoe, Douglas, Elbert, Lincoln	23.0	7.4	0.0	30.4	35.2	(4.8)	86.3%
19	Weld	9.0	2.8	1.0	12.8	14.9	(2.1)	85.6%
20	Boulder	9.0	2.3	0.0	11.3	13.0	(1.7)	87.1%
21	Mesa	5.0	3.0	0.0	8.0	9.6	(1.6)	83.7%
22	Dolores, Montezuma	2.0	0.0	0.0	2.0	2.1	(0.1)	95.7%
STATEWIDE: 2015-16		181.0	49.7	4.0	234.7	277.7	(43.0)	84.5%

COUNTY COURT FILINGS BY CASE TYPE FY 2001-02 to FY 2014-15

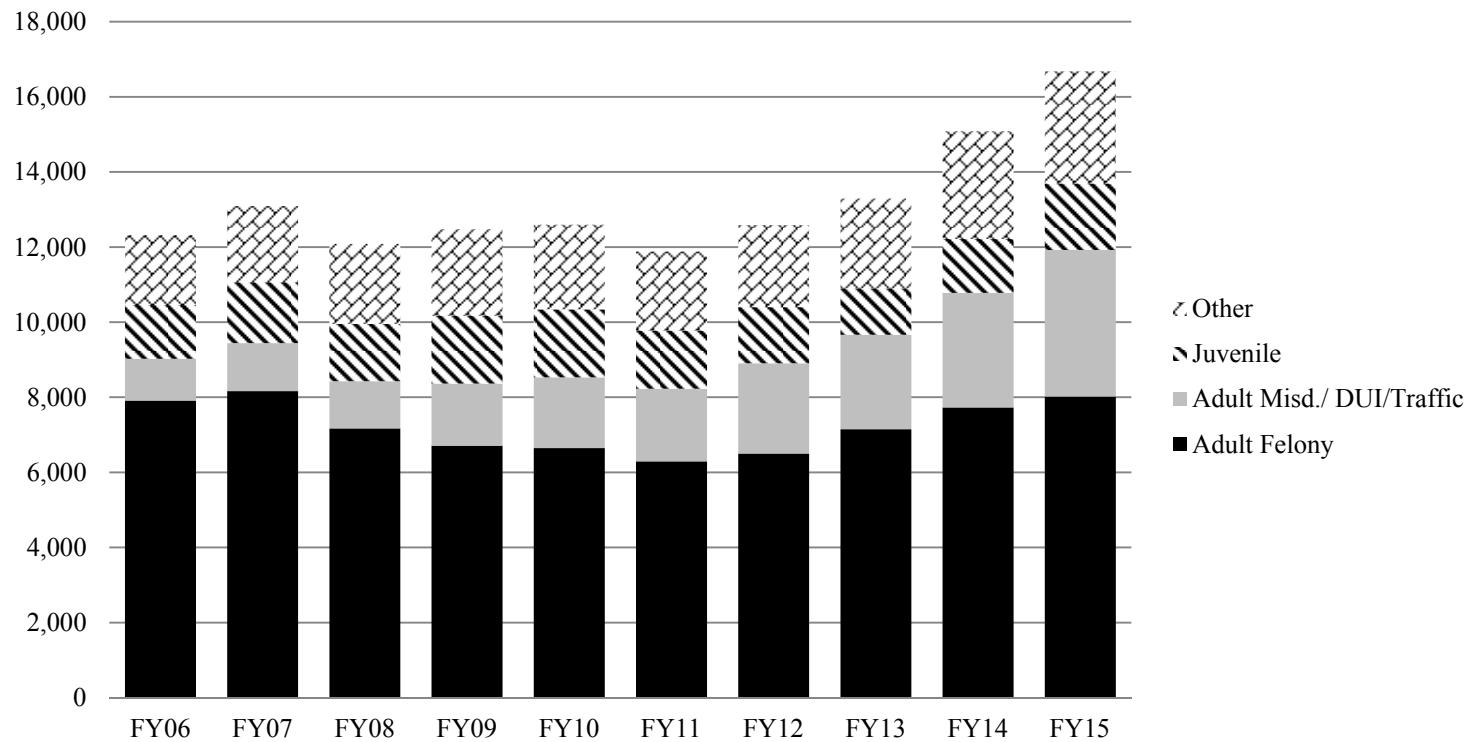


FY 2015-16 Staffing Levels for COUNTY COURT JUDICIAL OFFICERS						
County	Actual Judges (FTE)	Actual Magistrates (FTE)	Actual Judicial Officer Total (FTE)	Needed Staffing Level (FTE) 1/	Actual FTE Over/(Under) Need	Staffing Percentage
Class B Counties:						
Adams	8.0	1.3	9.3	10.6	(1.4)	86.9%
Arapahoe	8.0	2.3	10.3	10.5	(0.2)	98.0%
Boulder	5.0	1.0	6.0	4.3	1.7	138.2%
Broomfield	1.0	0.0	1.0	0.9	0.1	113.6%
Douglas	3.0	0.6	3.6	3.4	0.2	106.5%
Eagle	1.0	0.3	1.3	1.0	0.2	123.8%
El Paso	10.0	3.5	13.5	12.6	0.9	107.6%
Fremont	1.0	0.0	1.0	0.8	0.3	133.3%
Jefferson	9.0	1.0	10.0	9.5	0.5	105.6%
La Plata	1.0	0.0	1.0	1.0	(0.0)	98.0%
Larimer	5.0	1.0	6.0	5.5	0.5	109.3%
Mesa	3.0	0.0	3.0	3.2	(0.2)	94.0%
Montrose	1.0	0.0	1.0	0.8	0.2	128.2%
Pueblo	3.0	0.5	3.5	3.4	0.1	104.2%
Summit	1.0	0.0	1.0	0.7	0.3	140.8%
Weld	<u>4.0</u>	<u>0.5</u>	<u>4.5</u>	<u>4.7</u>	<u>(0.2)</u>	95.3%
TOTAL for Class B Counties: FY 2015-16	64.0	11.9	75.9	72.8	3.1	104.3%

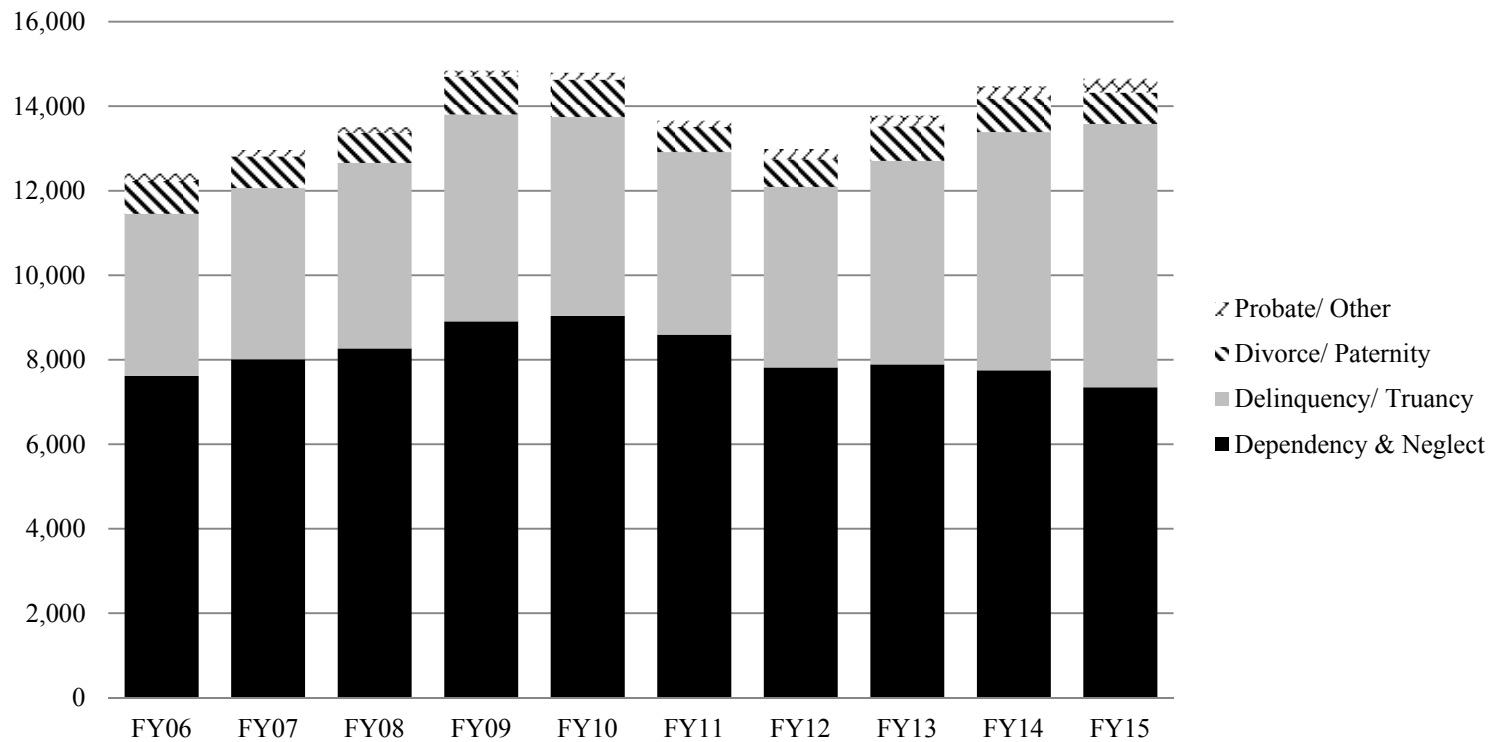
Office of the State Public Defender
Active Cases: FY 2005-06 through FY 2014-15



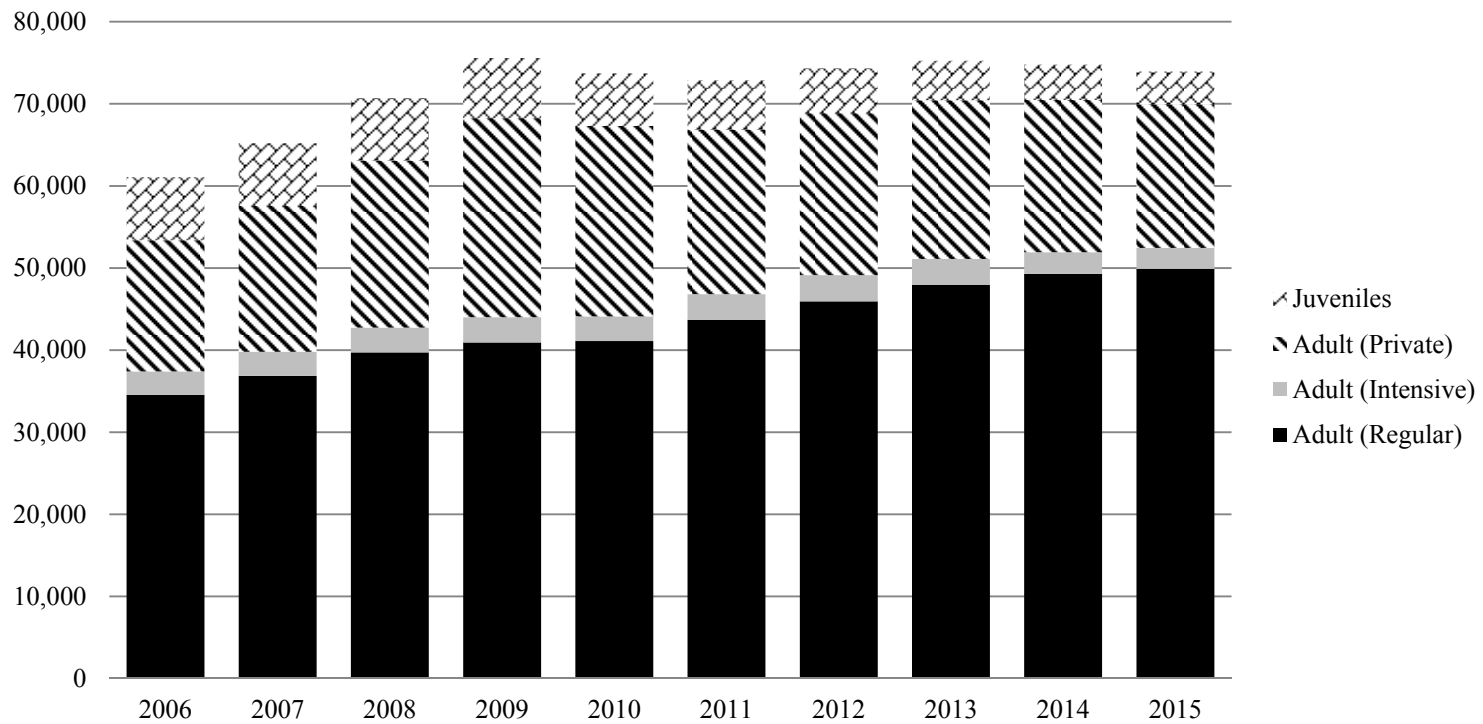
**Office of the Alternate Defense Counsel
Cases Paid: FY 2005-06 through FY 2014-15**



Office of the Child's Representative Appointments Paid: FY 2005-06 through FY 2014-15



Probation Clients on Supervision as of June 30th Each Year





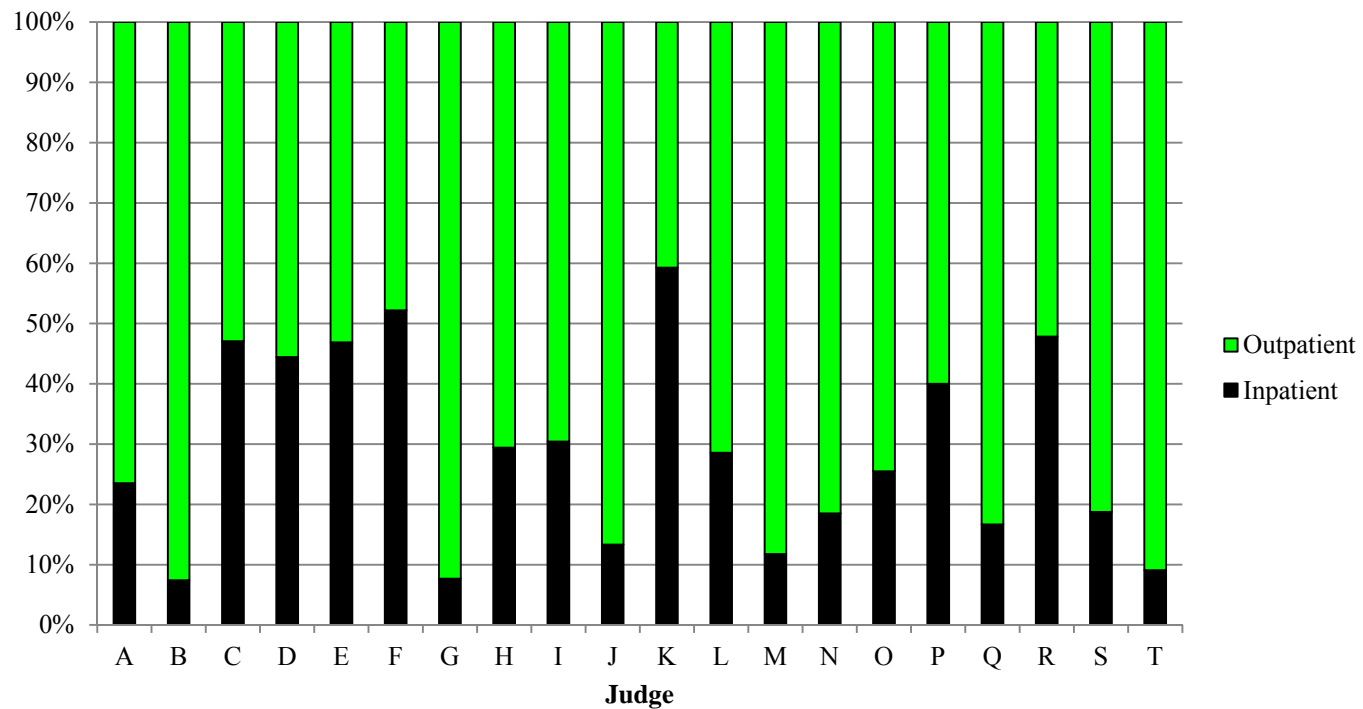
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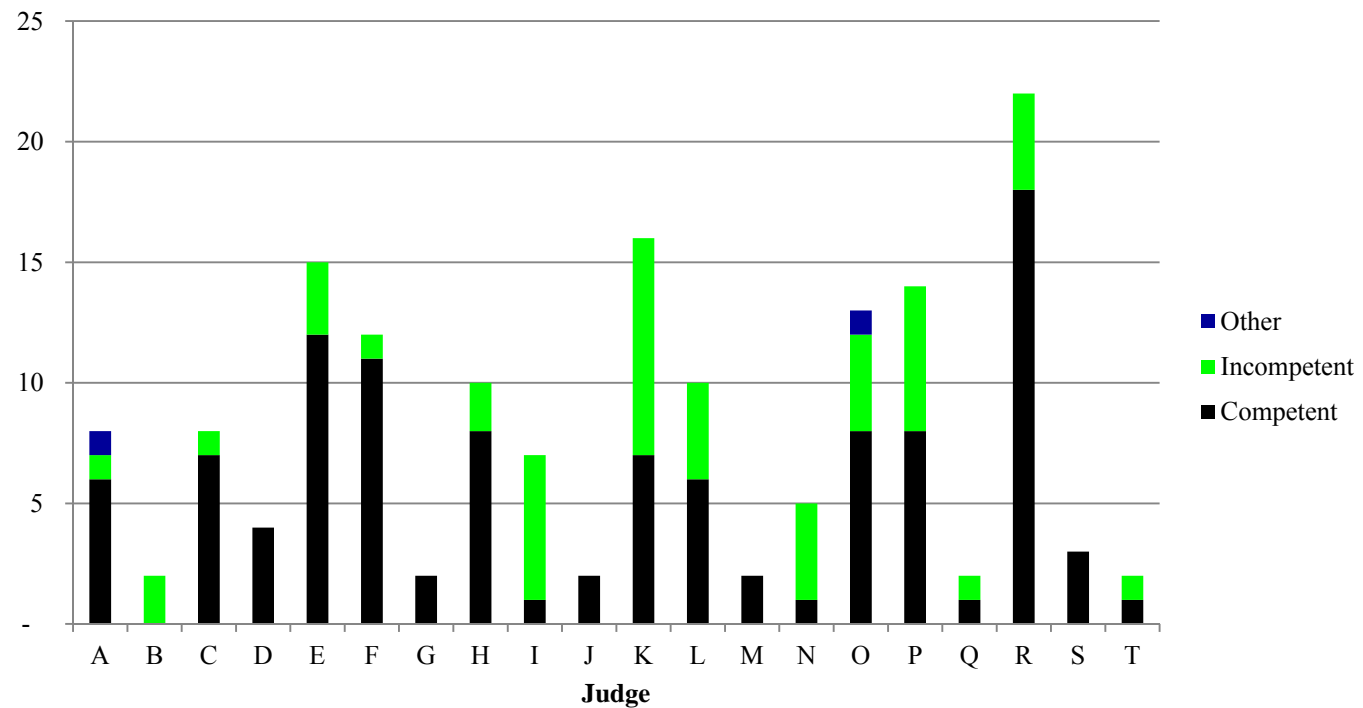
Carolyn Kampman, JBC Staff

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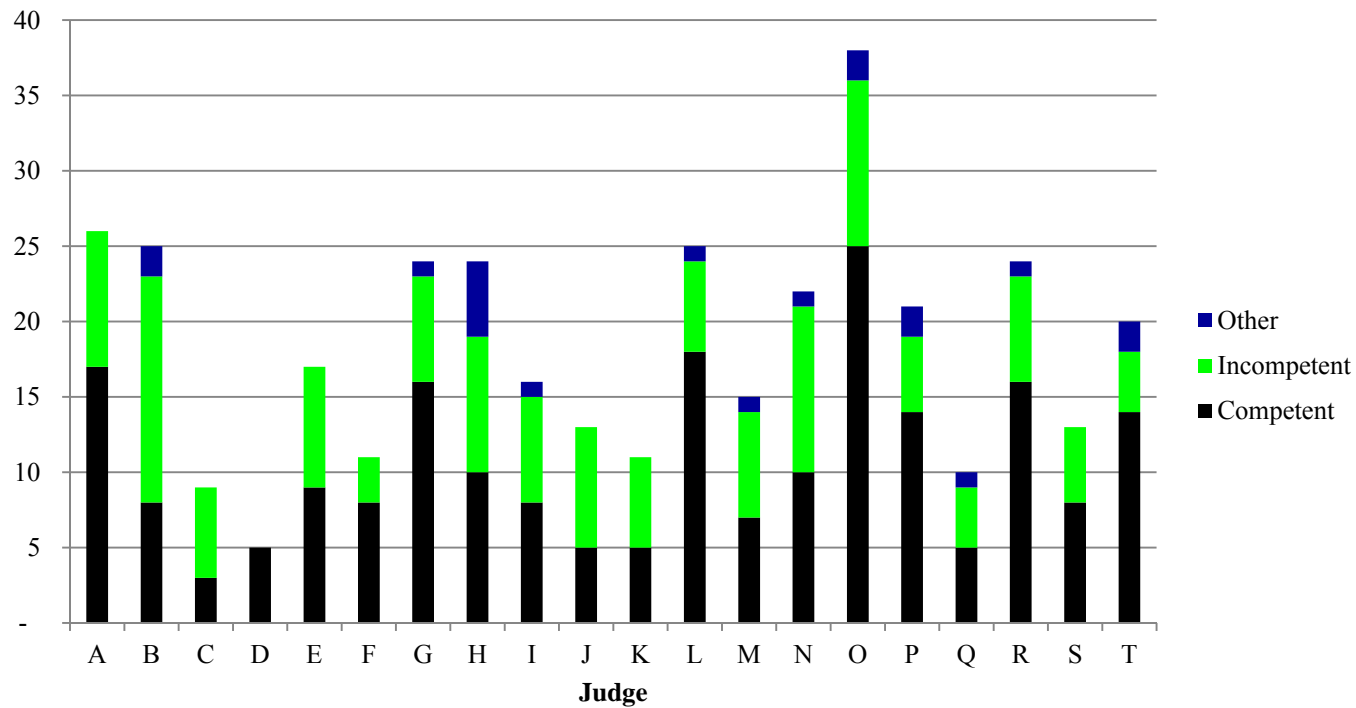
**Sample of Competency Evaluation Orders for 20 Judges
(FY 2012-13 to FY 2014-15)
Percent of Inpatient vs. Outpatient Orders**



**Sample of Competency Evaluation Orders for 20 Judges
(FY 2012-13 to FY 2014-15)
Number of *Inpatient* Evaluation Orders, by Result**



**Sample of Competency Evaluation Orders for 20 Judges
(FY 2012-13 to FY 2014-15)**
Number of *Outpatient* Evaluation Orders, by Result





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